SENATE.

SATURDAY, *May 4, 1912.*

(Continuation of legislative day of Thursday, May 2, 1912.)

The Senate met, after the expiration of the recess, at 11 o'clock and 50 minutes a. m.

RIVER AND HARBOR APPROPRIATION BILL.

The PRESIDING OFFICER (Mr. GALLINGER in the chair). Senate bill 5382 is before the Senate as in Committee of the Whole and open to amendment.

Mr. NELSON. Mr. President, on behalf of the Committee on Commerce, I ask leave to report back House bill 21477, the river and harbor bill, with certain amendments, and I submit a report (No. 697) thereon. I desire to state that at the earliest opportunity after the pending bill is disposed of I shall call up this bill.

I wish to state, further, that the bill as it came from the House appropriated a little over $24,000,000 in cash and $2,200,000 in continuing contracts. The Senate committee by its various amendments have added about $8,000,000 in cash to the bill, making the total amount of the bill somewhere about $34,000,000. One hundred and eighty-five amendments were offered in the Senate, involving $44,000,000. If we had adopted all those amendments we would have increased the bill to the extent of $44,000,000. We could not do that. We have endeavored to get a moderate bill. We were somewhat handicapped in this matter because of the exigency that arose on the Mississippi River. We have added to the bill, in respect to that portion of the river from the Passes up to Cape Girardeau, Mo., $2,500,000 beyond the bill as it passed the House.

The PRESIDING OFFICER. The present occupant of the chair is of opinion that it is somewhat in violation of the unanimous-consent agreement to admit other business, but if there be no objection the report will be received.

The SECRETARY. A bill (H. R. 21477) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes.

The PRESIDING OFFICER. The bill will be placed on the calendar.

Mr. NELSON. I ask to have the report printed.

The PRESIDING OFFICER. It will be printed, under the rule.

CALLING OF THE ROLL.

Mr. REED. Mr. President, I raise the question of the lack of a quorum.

The PRESIDING OFFICER. The roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Crawford	Kern	Pomerene
Bacon	Culberson	Lea	Reed
Borah	Cullom	Lodge	Richardson
Bourne	Cummins	McCumber	Root
Bristow	Davis	McLean	Shively
Brown	Dillingham	Martine, N. J.	Simmons
Bryan	Fall	Myers	Smith, Ga.
Burnham	Fletcher	Nelson	Stephenson
Burton	Foster	Oliver	Sutherland
Catron	Gallinger	Overman	Swanson
Chamberlain	Guggenheim	Page	Thornton
Clapp	Johnston, Ala.	Perkins	Works
Clark, Wyo.	Jones	Poindexter	

Mr. SWANSON. I wish to announce that my colleague [Mr. MARTIN] is detained from the city on account of illness in his family. I will let this announcement stand for the day.

Mr. RICHARDSON. My colleague [Mr. DU PONT] is necessarily absent from the city.

The PRESIDING OFFICER. Fifty-one Senators have answered to their names. A quorum of the Senate is present.

AMENDMENT TO INDIAN APPROPRIATION BILL.

Mr. BACON. Before the Senate proceeds to the regular order, I ask permission to introduce out of order, so that it may be printed, an amendment which I propose to offer to the Indian appropriation bill (H. R. 20728). I ask that the amendment be printed and referred to the Committee on Indian Affairs. I also ask that a letter from the Secretary of the Interior relating to the same matter may be printed in connection with the amendment and referred to the Committee on Indian Affairs.

The PRESIDING OFFICER. Without objection, the amendment will be received and it will be printed with the accompanying letter.

EMPLOYERS' LIABILITY AND WORKMEN'S COMPENSATION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 5382) to provide an exclusive remedy and compensation for accidental injuries, resulting in disability or death, to employees of common carriers by railroad engaged in interstate or foreign commerce, or in the District of Columbia, and for other purposes.

Mr. DAVIS. I ask permission to have a short telegram read before the consideration of the bill is proceeded with.

The PRESIDING OFFICER. Without objection, the telegram will be read.

The Secretary read as follows:

LITTLE ROCK, ARK., *May 3, 1912.*

Hon. JEFF DAVIS, *Washington, D. C.:*

We, as representatives of Division 131, Order of Railway Conductors, implore that you use best efforts to defeat bill entitled "Workmen's compensation act."

J. B. MILLIKEN.
A. H. JOHNSON.

Mr. CULBERSON. Mr. President, are amendments other than committee amendments now in order?

The PRESIDING OFFICER. The Chair understands that the committee amendments have been disposed of and that amendments are in order.

Mr. CULBERSON. I understand that the Senator from Georgia [Mr. SMITH] desires to speak generally on the bill, and I will wait before offering the amendments formally.

Mr. SMITH of Georgia. Mr. President, I favor the general principles of the workmen's compensation bill. My opposition to the measure now pending before the Senate is due to the fact that I think the bill does not properly regard the rights of the employees of the railroad companies. I believe its passage would be a great injustice to them if it is passed in its present form.

I therefore desire to urge one of two courses with reference to it—either that it be allowed to go over until December, that the bill in its details may be studied thoroughly not only by the members of the committee who prepared it but by other Senators and by the public at large, or else, if the bill is to be passed now, that the existing rights of railroad employees be preserved to them and that the bill be made cumulative and not exclusive.

Why should this bill be pushed through so hurriedly? It is a measure of vast importance. It concerns the future of a very large part of the American people. There are nearly 1,800,000 men employed on the railroads. Estimating an average family of five, we would have nearly 10,000,000 of our people concerned in this bill.

When did the Senate rush through so hastily a measure which affected so many of the citizens of our country and affected them so vitally? This bill was only introduced in February. Only 30 days ago it was reported from the Judiciary Committee. What the Judiciary Committee intended to present to the country has been known but 30 days. The men interested in this measure have not spoken upon it. The telegrams which you have received commending this measure have not been received since the measure was perfected and since the men knew what the measure was.

I wish to urge upon Senators that they have not heard from the railroad employees on this measure as it is. Why do Senators object to delay? Next week one of the strongest organizations of railroad men meets in annual convention at Harrisburg, Pa. The Brotherhood of Locomotive Engineers will meet on the 8th there. One or two of the chief officers of that association have approved this bill, but the rank and file have been muzzled. They have been prevented from presenting their protest to you. To my certain knowledge one of their leaders came here, intending to appear before the Judiciary Committee, but, learning that not only his membership but the membership of his lodge might be withdrawn if he appeared, he concluded that he could render more service staying inside the order than by quitting it. Now, within two weeks you can hear from them. If you rush this bill through at once, you prevent them from having a hearing.

The Firemen's Brotherhood, one of the four largest organizations of railroad men, has been relieved, so that they can express themselves, and you are beginning to hear from them. About two weeks ago the conductors, finding dissatisfaction among their men, were relieved, and you are hearing from them. During the summer the principal organizations of most of these bodies will meet. Of course, if you pass the bill now, you will prevent them from letting you hear from them. If you wait until December, you will find out what they really think about it.

Ah, Senators, with the facts before you, you can not defend a vote for this bill upon the theory that the men have asked for it, for to your attention is brought the fact that the men have not asked for it. There are two heads of organizations here still pressing it—a Mr. Lee and a Mr. Wills. We heard from Mr. Lee through a paper or an argument he presented replying to an article from the chief justice of the Supreme

Court of North Carolina, in which he went on to denounce the author of the article as an ambulance chaser. His language reminded me of the railroad claim agent's, and it sounded like one of that class prepared his article for him.

If the balance of his statement is no more accurate than his characterization of the writer of the article about which he complains, who has for 20 years been upon the supreme court bench of North Carolina and for 10 years chief justice of that bench, his statements are entitled to but little credit.

We heard yesterday of an article sent by Mr. Wills to engineers throughout the country urging them to telegraph to Senators and Representatives to vote for this bill just as it is, without any amendment, for, he declared, "amendments are dangerous." Dangerous to whom? Not to the men. No one will suggest an amendment to this bill that will make it harder on the men. Dangerous, then, to whom? Necessarily to the railroad companies, for they have got everything in this bill that the ingenuity of a trained railroad lawyer could put into it to facilitate defense to their cases. I think every difficulty that the trained railroad lawyer ever met in conducting the defense of a case by an employee is carefully guarded in this bill. Dangerous, then, to whom? Dangerous to the railroads, not to the men. Dangerous to amend it, he says.

Why, the Senator from Utah yesterday presented three amendments, one of which modified the autopsy provisions in the original bill, the provision that allowed the railroad claim agents, at their own volition, to take up and cut up as they saw fit any railroad employee killed in the line of his work. It required no judicial discretion to let them do it; it was an arbitrary right given to them. The Senator from Utah has presented an amendment modifying that clause. Yet Mr. Wills insisted that any kind of an amendment was dangerous. Dangerous to take the 16-year limit off the daughters? Why, the Senator from Nebraska [Mr. HITCHCOCK] was shocked on yesterday when he understood that the 16-year-old girl of a dead railroad man was to be turned off without a dollar. No matter how completely the negligence of the railroad company was responsible for his death, no matter how completely free from criticism had been his conduct, the 16-year-old daughter was to be turned off with nothing; and when the Senator from Utah was questioned about it, he excused the bill by suggesting that there were others to be taken care of. Now, he has put a modification upon that provision. Yet Mr. Wills tells us that any amendment would be dangerous. I do not believe Mr. Wills will be here next December representing the Brotherhood of Locomotive Engineers.

I ask that this bill go over until fall, because there are many objections to it. There are many things in it that can be improved, or, at least, where the rights of the employees may be broadened without injustice to the railroad companies; and before their rights are cut off at common law and at statute law and this bill substituted exclusively as their means of redress it is not unreasonable to insist that the fullest time be given to the men involved—not just to Lee and Wills, but to the men themselves who meet in their national conventions next week and during the coming summer to consider these questions and to be heard before us. Is that unreasonable? Why object to it? It is so important to them; it is of such infinite importance to them.

But Senators say, "True, there are defects about the bill, but we will pass it and correct it in later years." What about the poor fellows who are hurt in the meantime? Correcting 5 or 10 years from now will not do them any good. You will have taken away from them their rights by passing this bill; you will have passed it without giving them a chance to be heard; and though you may correct the defects of the bill within the next 10 years, that will not do any good to the widows and orphans whose husbands and fathers are killed in the meantime. It will not do any good to the men themselves who are injured in the meantime.

Now, if you hope to perfect it in a few years, why not leave them their present rights under existing laws? Why not let it go over until December and perfect it before you put it on them? That is all I am asking. I am urging the Senate to do one of two things—to leave them their present rights under existing laws, while this present measure is being tried and being perfected, or that you let the bill go over until December, that the bill itself may be perfected after the men themselves have been heard.

The present rights of the men have just been established. For years they have been fighting to obtain them; for years they have been fighting to be relieved from the inhuman line of decisions that followed Priestly *v.* Fowler, decisions that regarded money as of more consequence than life; decisions that took care of a man's freight and paid him a hundred cents on the dollar for it, but built around human life and human limb a line of rulings that allowed life and limb to be taken without compensation. At last the beneficent act passed by Congress in 1908 has been fully sustained by the Supreme Court of the United States; only in February it was sustained; and now, just as it is established, just as the Supreme Court has declared that it is the law, you strike it down. Ah, Senators, is that right? Is it right, just as the law they have fought for so long has been sustained by the Supreme Court of the United States, to strike it down?

If you put into this bill a provision that it shall not be exclusive, if you leave the men their present rights until we try this bill, and in a few years' time, through experience, perfect it and then make it exclusive, I shall have nothing to say. If you merely make it cumulative instead of exclusive I shall join the men who favor it and vote for it.

The English law in many respects has been used as the basis of the proposed law, but the English law provides that the remedy shall be cumulative. The English workmen's compensation act preserves to the men their common-law rights; it preserves to the men their statutory rights under the employers' liability act, and it gives them a workmen's compensation act in addition. This bill is stricter on the men than the English workmen's compensation act; it is harder on them than that act in the fact that it cuts off from them their statutory and common-law rights in addition to the compensation act.

Let me call your attention to the trouble about making this bill the exclusive remedy. The constitutionality of this bill and the meaning of the bill will be questioned. In the proceedings of the commission will be found an elaborate criticism upon the constitutionality of this bill; strong arguments were presented against its constitutionality. I shall not discuss them, but I only call attention to the matter sufficiently to show that the constitutionality of this bill must go to the courts. Suppose it is held to be unconstitutional, as the first employers' liability act was held to be, then what becomes of the men?

Leave them their present rights until this bill has been tested; wait until it is held constitutional before you strike down their existing rights. That is what I am pleading for.

Then, what does it mean? There is a great deal of doubt.

Mr. CRAWFORD. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from South Dakota?

Mr. SMITH of Georgia. I do.

Mr. CRAWFORD. I should like to inquire of the Senator how it would destroy existing rights if the court should find that the statute was invalid?

Mr. SMITH of Georgia. They would be in abeyance in the meantime.

Mr. CRAWFORD. They would be in abeyance, but they would not be destroyed.

Mr. SMITH of Georgia. The statute of limitations might run against them.

Mr. CRAWFORD. That would mean a very long litigation.

Mr. SMITH of Georgia. It will take three years to go to the Supreme Court on the constitutionality of this bill. It has taken us nearly four years to carry the present employers' liability bill through to the Supreme Court. It was passed in May, 1908, and the decision of the Supreme Court was rendered in February, 1912.

Mr. CHAMBERLAIN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Oregon?

Mr. SMITH of Georgia. Yes.

Mr. CHAMBERLAIN. I simply desire to ask the Senator if he knows what the Federal statute of limitations is, if there is any, against a claim of this kind?

Mr. SMITH of Georgia. The Federal statute, I think, is two years under the employers' liability act. The Federal statute of limitations would be superseded by the statutes of the various States in some instances, and the statutes of the different States would be suspended, so far as the men involved in interstate commerce are concerned, by this bill. Congress having provided a remedy, it would take the place of the State statute.

Mr. CHAMBERLAIN. Does the Senator think the State statutes would govern a proceeding in a Federal court under a Federal statute?

Mr. SMITH of Georgia. Not at all; but it would govern the rights in a State court at common law; and if it is constitutional it strikes down and suspends the jurisdiction of the State courts as to all interstate-commerce employees.

Mr. BRYAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Florida?

Mr. SMITH of Georgia. I do.

Mr. BRYAN. I suggest to the Senator from Georgia that there was no Federal statute placed in abeyance under the employers' liability act while that act was being tested in the courts of the United States.

Mr. SMITH of Georgia. And that was not exclusive in any sense. Mr. CARY in a most elaborate argument debated the constitutionality of this bill, and other briefs were filed attacking its constitutionality. As I have said, I shall not argue the proposition as to its constitutionality. To be frank, I do not know what the Constitution does mean or where we are going to stop on this subject. We have already gone further than I thought we could, and I would not venture an opinion and I would not place great reliance upon the opinion of anybody else about where it will stop. I think we shall know where it will stop when the Supreme Court settles it; but with that question involved, why make this remedy exclusive?

I said that the meaning of the bill was doubtful. I am not so much criticizing the phraseology of the bill as the necessary doubt as to the meaning of such a bill. Why make a remedy of this kind exclusive when you are reaching out into a new field full of doubt?

The bill provides that—

> Any employee who, while employed in such commerce by such employer, sustains personal injury by accident arising out of and in the course of his employment.

When is he and when is he not to be considered employed in such commerce? That is a very important question for construction, and it will have to be construed before we will know. When will it be determined that the accident arose out of and in the course of his employment? That is a matter for construction. Will it apply to men in the shops? Will it apply to men in the yards? Take the case of a railroad beginning in a State and ending in a State and yet engaged in interstate commerce. To what extent and where will it apply to men employed by that railroad? In the record will be found a statement presented to the commission by the attorney general of the State of Washington, calling their attention to the fact that upon these questions the district courts have disagreed already. If you leave the employee his present remedy, he can bring his suit; he can put in two counts; he can plead both ways; he can protect himself from the loss of his rights while the meaning of this bill is being determined.

Nearly all the State statutes are made cumulative or optional and elective, yet this bill, just as the employers' liability act is decided to be constitutional, though the men for three or four years have been held in a sea of doubt—this bill is to be substituted for the established law, and for another term of years they are to be left in doubt, if this bill repeals existing laws. What I ask is that in fairness, if this bill must pass now—and I understand you have the votes to pass it; I understand that some Senators on this side will vote for it—but if it is to be passed now, I plead with you do not strike down the existing remedies and put these men in a condition of utter doubt.

If you take the plan provided in this bill for serving a petition before the adjuster and leave it as it is to-day, it will be a most difficult matter to secure service. I defy any lawyer to take the plan of service and to know just how to serve a petition. The bill certainly must be amended in that respect. It tells you how to serve the process, but how you can do what it tells you is a very different thing.

We are told that this bill is intended to stop waste; it is designed to do away with the existing laws because the existing laws permit litigation, and this is a beneficent scheme that is to terminate litigation. The Senator who supports this bill upon that theory is ready to chase a rainbow whenever its presence is suggested. In the first place, the amount of litigation on the part of the railroad employees is rapidly decreasing; the amount of litigation is much less in comparison with the number injured than the discussion of this question by the advocates of this bill indicates, and I will prove that by the record before the commission.

Mr. REED. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Missouri?

Mr. SMITH of Georgia. Certainly.

Mr. REED. I do not wish to interrupt the Senator, but the Senator from Oregon [Mr. CHAMBERLAIN] asked the Senator from Georgia if he knew what was the limitation in the present Federal statute. I desire to read the limitation provision in that statute. It is as follows:

> SEC. 6. No action shall be maintained under this act unless commenced within two years from the day the cause of action accrued.

Mr. CHAMBERLAIN. Mr. President, that was hardly what I desired to know. I was asking that question on the assumption that this bill might be tested by a proceeding in the court and might finally be held to be unconstitutional, say at the end of three or four years. Would that affect existing rights under the present liability law?

Mr. REED. Beyond question, unless this bill is amended so as to avoid the limitation which I have just read; that is to say, the section I have just read requires the action to be brought under the present Federal statute within two years from the date of the injury. If a man is injured and he proceeds under this present bill, assuming it to be his proper and exclusive remedy, and two years elapse pending that litigation, and it is then decided that this bill is unconstitutional, and he then goes back and undertakes to bring his action under the existing Federal statutes, he would be met by the bar of the time limitation therein expresssed. This is true beyond any earthly question. Such a litigant would be out for all time.

Mr. SMITH of Georgia. Mr. President, there is a more serious trouble than that. We are dealing with a class of people who need their money at once. Even if you save them the statute at the end of three years, you have stopped them from their rights for three years. You are dealing with children and widows; you are dealing with men in many cases without means, who depend upon their daily labor for their livelihood, and when you stop their rights after they are injured, so that they can not earn a living, then the fact that you give back to them the right to sue three years later does not sustain them in the suffering and the want you have put on them in the meantime. The preservation of the statute of limitations is not the redress—and just here I am going to stop to say that in my plan, or the plan I would advocate, of a workmen's compensation act, I have a view radically different from this bill in this regard. It provides that for two weeks after injury nothing is to be paid. My own view is that every workmen's compensation act should provide a scheme whereby for the first 30 days, at least, during which a man is suffering from an injury he should draw his pay and draw it promptly, so as to keep want away from his door while he is suffering from such physical injury. That is the German theory for treating this question.

Since the interruption I have turned to the expression of opinion by the attorney general of the State of Washington that I contemplated reading to the Senate but for the fact that I could not find it instantly. He says:

> First, the carrier must be engaged in interstate commerce; and, second, the employee must be engaged in interstate commerce. The decisions, even the few that we now have, are in absolute conflict. For instance, Judge Kershon in the Pennsylvania district court has held that a workman engaged in repairing a bridge is not within the provisions of the Federal liability act; another district court has come to exactly the contrary conclusion. Former Judge Whitson, of the eastern district of Washington, held that a brakeman engaged in repairing a brake was engaged in repairing cars.

I come to the theory presented to support this bill that it would largely eliminate litigation and that now nearly all claims are litigated. I find, Senators, in the record the testimony of Mr. Whiting, the claim agent who has been criticized and who may or may not be entirely worthy, but who has gotten up some figures, a portion of which I will use. He has undertaken to ascertain certain facts about accidents and payments for accidents during a three-year period on 25 per cent of the railroads in the United States, and the result of his statement is that of the claims against these roads amounting to 41,571, all were settled except 344, which went to judgment.

It is but fair to say that some of these settlements were cases in which suit was first brought, but it is equally fair to claim from his testimony that the great bulk of the cases are now settled without litigation, and the percentage of settlements which he presents under the existing law is greater than the percentage of Germany and England under their workmen's compensation acts.

Again, the amount paid out for settlements was $8,567,636, while the amount by judgment was $800,748. Again, you will find in the record, at page 1196, the testimony of Mr. Warfield, counsel for the Louisville & Nashville Railroad, in which he declares that 95 per cent of the accidents on his road are settled without litigation; settled directly with the parties injured without any employment of counsel at all, and that only 5 per cent of the cases go into the hands of attorneys.

It is very easy to protect the railroad man from exorbitant charges by attorneys. We can amend the employers' liability act and provide that in no case shall a contingent fee be more than 20 per cent, and that in no case of settlement without an actual trial shall it be over 10 per cent; and under this bill, creating almost absolute liability, removing the defenses that have heretofore been the cause of litigation, that compensation would be ample.

Now, this new act will lessen settlements. It withdraws the inducement to settle. It cuts down the amount of recovery in cases of trial so strongly that the railroads will litigate, because they will not have anything, scarcely, to pay, even if they lose, and they will insist that the employee take what they offer, for even if they litigate they will not have much to pay.

This large volume of settlements now made are to avoid litigation. They are due to the danger of much larger payments if litigation takes place; and now, if you adopt this bill, under which, even if litigation takes place, nothing scarcely could be recovered, you encourage the railroad companies to litigate.

I said that this new bill furnishes a wide field for litigation—in the first place, as to the constitutionality of the bill, to which I have referred; in the second place, as to the meaning of the terms of the bill, the character of the position occupied by the employee; and then, gentlemen, comes a most artistic piece of work. It is the creation of this adjuster. The name is misleading. I do not think it was exactly right to all these men over the country to call him an adjuster, because the idea went out to them that when they came to this adjuster he was to pay them. That is not his authority at all. He is a Federal trial judge, appointed by the district court judge. He has no power over a case except to hear it when it is brought to him and try it under the evidence.

The next thing that is artistic and misleading about this bill is the way in which the case is to be brought before the adjuster. Instead of telling the employee just plainly, "You may bring your suit before that judge," the bill states that a little communication is to be presented to him. Why not call it what it is? A suit, a lawsuit before a man authorized by law to try it. This adjuster is to be a trial judge without a jury, and the little notice the bill requires is the declaration filed before him and which is to be answered by the defendant. It is the machinery for litigation. It is not expressed in terms to carry a clear conception of its effect.

Just here let me stop and say that there is no provision in this bill which will enable the plaintiff to get his witnesses or get his testimony if the witnesses are outside of the district. The bill does not say he can take testimony by deposition, to be used before this master or judge. It does not say "you may take it by interrogatories." Of course the railroad does not take its testimony in that way. It has the cooperation of the other railroads, and it brings its witnesses on free transportation, but the plaintiff must rely upon depositions and interrogatories to get his testimony. Nobody was working on the employees' side when this bill was framed. That was not thought of. It was the claim agents and the attorneys for the railroads who were before the commission who suggested everything they needed. There is absolutely no provision in this bill by which a plaintiff can get a witness outside of the jurisdiction of the trial judge called adjuster.

Then comes this privilege with reference to an appeal. It is a de novo trial. Anyone familiar with defending railroad suits knows how the railroad attorney loves to have another trial when he has lost the first time; how he seeks it. Here this bill says, "You try this case before this judge without a jury. You can take it right on up and have a brand new trial in the court above, if you want it." How it takes care of the troubles that have surrounded them! That is not all.

After it has been tried before the judge in any court above, within two years, whenever they seek it, the railroad can have another hearing. The case can be brought up anew before this trial judge without a jury, called adjuster, and another hearing can be had, and if the defendant is not satisfied with the second hearing, a third hearing can be had, and there is no limitation in this bill as to the number of times a case can be brought up anew before this trial judge without a jury.

Second, the employee can not use this remedy. He is cut off from his wages, a cripple, and if he can pull through one trial he is fortunate. He will need somebody's help. Without the privilege of creating any lien on what he recovers, with what is to come to him, a bare pittance, without the privilege of making a contract with counsel, he can be harassed by trial after trial and trial after trial. It would pay the railroads to do it. They can appeal and lessen the danger by harassing the employee with such innumerable trials that it will pay better for him to take anything that is offered.

Senators, I do not believe there is one railroad man in fifty who will stand for this measure, and after they have suffered from it a little while there will not be one in five hundred; and what I want to impress here is that these telegrams do not speak from the men about this measure, and Senators can not, when they return to their homes and find the distress they have brought, blame it on the men for having brought it on themselves, because the RECORD will be full of the fact that the Senate has been advised how little the men have had to do with it. Will Senators vote for such a measure?

Mr. SIMMONS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from North Carolina?

Mr. SMITH of Georgia. I do.

Mr. SIMMONS. The Senator from Georgia has made what to my mind is a startling statement about this bill. I understood the Senator to say that after the trial before the adjuster, if the railroad desired it, it was entitled to have another trial before the court, and if the result of that trial was not satisfactory to the railroad, it was entitled to have another trial, and if that was not satisfactory, still another trial.

I should like, if I have understood the Senator correctly, to have him tell us upon what condition, if any, these additional trials would be allowed. That is to say, does the Senator mean to say that the railroad, having had its hearing before the adjuster and once before the court, could without any assignment of error in the decision of the court have another trial?

Mr. SMITH of Georgia. Yes.

Mr. SIMMONS. Simply by asking for one?

Mr. SMITH of Georgia. Yes. I will explain what the bill means on that subject and what I think of it. The bill provides that during two years the railroad company, even after hearing, can have the employee reexamined by physicians, and have one or more additional hearings. Either the railroad or the man can do that. The man can apply for an increase of his pay at any time within two years and have another reference.

Mr. SIMMONS. Then I understand the Senator to mean that if the railroad people want another hearing, after the court has once decided it, it would be necessary to allege a change in the condition of the plaintiff?

Mr. SMITH of Georgia. The hearing follows as a matter of course. Permission to have a second hearing is not necessary. The bill gives them the right to apply to the adjuster and to have another hearing.

Mr. SUTHERLAND. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Utah?

Mr. SMITH of Georgia. Certainly.

Mr. SUTHERLAND. The bill provides that at any time within two years either party may apply to the adjuster, and upon showing that the disability has increased or decreased or ceased there may be an adjustment of the order for compensation.

If the Senator will permit me, that provision is a very usual one.

Mr. SMITH of Georgia. I will not yield now for a speech. I yielded for your statement of fact, but not for a speech. I prefer to go on with my own speech. The Senator can make his speech when I get through.

Mr. SUTHERLAND. I will not interrupt the Senator further, with that admonition.

Mr. SMITH of Georgia. That is precisely what I said at the outset with reference to the bill—that the provision to the employee is worthless. If he can drag through his two trials, he is doing very well; but he can be, at the option of the railroad, any time it sees fit within two years, carried before the adjuster and another hearing had before the adjuster at the pleasure of the railroad company. That is what I said.

I said that this bill arbitrarily gives to each side the right to apply, within two years, for a hearing before the adjuster.

Mr. SIMMONS. That application for a new hearing or a rehearing would be based upon an allegation of a change in the physical condition of the plaintiff, would it not? I am simply asking for information.

Mr. SMITH of Georgia. No.

Mr. SIMMONS. I understood the Senator first to say that it is a matter of right.

Mr. SMITH of Georgia. It is a matter of right.

Mr. SIMMONS. Without any change in the original status as it was presented to the trial court or the adjuster, the railroad or the plaintiff can ask for a rehearing?

Mr. SMITH of Georgia. I say it is a matter of right.

Mr. SIMMONS. And does not depend upon the changed condition of the plaintiff?

Mr. SMITH of Georgia. The hearing is a matter of right.

Mr. SHIVELY. Is there nothing left to the discretion of the court?

Mr. SMITH of Georgia. Not as to whether there shall be another hearing. The hearing arbitrarily follows the application.

Mr. SIMMONS. But there must be an allegation of a change in the physical condition of the plaintiff.

Mr. SMITH of Georgia. It does not say there must be such an allegation.

Mr. SIMMONS. Then it seems to me there is a provision in this bill violative of every principle of jurisprudence of which I have ever heard.

Mr. SUTHERLAND. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Utah?

Mr. SMITH of Georgia. I will to call attention to a fact, but not to discuss the bill.

Mr. SUTHERLAND. I call attention to it because I am sure the Senator does not want to misrepresent the bill. The section referred to is section 11 on page 11. It says that—

> The judgment may be from time to time reviewed by the adjuster upon the application of either party, after due notice to the other party, upon the ground that the incapacity of the injured employee has subsequently ended, increased, or diminished.

Mr. SMITH of Georgia. But the review itself is a matter of course. It is an arbitrary right to have the review. It is just exactly as I said it was—the arbitrary right, as many times as they see fit, to drag the employee before this adjuster and have other hearings. There is no limitation as to the discretion of the adjuster to reduce the amount allowed. It is true that it purports to give it to the employee as well as the employer, but what I insist upon, Senators, is that the employee who can pull through one trial and live has done all he can, and that this provision gives to the railroad companies, the defendants, a right which will enable them to so annoy the plaintiffs as to force them to take anything claim agents offer.

There could not be a provision framed by the ingenuity of a corporation counsel—no lawyer who ever represented railroad companies could suggest a provision—to put the railroad employee more perfectly in the hands of the claim agent.

Litigation stopped? There never was a bill framed that more perfectly provided litigation and litigation and litigation, and all at the expense of the workmen.

Mr. SMITH of South Carolina. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from South Carolina.

Mr. SMITH of Georgia. Yes.

Mr. SMITH of South Carolina. The Senator from North Carolina asked a question a moment ago, that, in case there was an adjudication of this matter and a subsequent review of the case was desired, whether it would not be a part of the allegation that there had been a change in the condition of the person. If I understand the Senator from Georgia, he means to say that whenever there is a request for the reopening of the case it has to be granted, but it is predicated upon a change in the condition of the individual who had been injured.

Mr. SMITH of Georgia. There does not have to be any application for a reopening. There is an application for another hearing, and the other hearing takes place.

Mr. SMITH of South Carolina. But is it not predicated upon some change in the condition of the party?

Mr. SMITH of Georgia. I will read the language of the proposed bill:

> At any time before the expiration of two years from the date of the accident, but not afterwards, and before the expiration of the period for which payment of compensation has been fixed thereby, but not afterwards, any agreement, award, findings, or judgment may be from time to time reviewed by the adjuster upon the application of either party, after due notice to the other party, upon the ground that the incapacity of the injured employee has subsequently ended, increased, or diminished. Upon such review the adjuster may increase, diminish, or discontinue the compensation from the date of the application for review.

Mr. SMITH of South Carolina. That is the very point I wanted to call attention to. The phraseology says upon the allegation that there is a change in the condition of the plaintiff. That is the only point I wanted to get at.

If the Senator from Georgia will permit me, I understand the point he is making is that the railroads, being in a better financial condition, can call for this review, and as a matter of fact, under the terms of the bill, they can do it upon their allegation at any time they see fit.

Mr. SMITH of Georgia. Absolutely.

Mr. SMITH of South Carolina. And the other man is not financially able to do the same thing.

Mr. SMITH of Georgia. And they can bring him in and bring him in and bring him in.

Mr. REED. Mr. President, this is the point in this matter: All that is required is the mere naked allegation, the mere filing of a statement, "We demand a review and allege that there has been a change of condition." Without any preliminary showing of a change of condition, but upon the mere naked allegation, the review takes place. There is no penalty of any kind if the allegation is found upon the trial to be false, and there is no provision to protect the man against being dragged into the various parts of the district following up the adjuster, and nothing to protect him against the expense of again bringing his witnesses.

Mr. SMITH of Georgia. Not only that, but he can be again examined by the doctors for the railroad from time to time. Kindly this bill permits that when the doctors for the railroad examine him he may have a doctor at his own expense. How is the injured employee to pay for expert service to meet these innumerable examinations by the expert surgeon of the railroad? Can anybody conceive anything that can be suggested to be added to this bill that would help the railroad company or its counsel in defending a suit? There is no provision for the pay of the physician of the poor fellow who is hurt. There is nothing to help him out.

Mr. SMITH of South Carolina. Not if he gains the case.

Mr. SMITH of Georgia. No; not if he gains the case. He can not be treated except by their physician. If he has his own physician he must pay him himself. He can not recover reasonable compensation for his own doctor if his doctor treats him. No; the railroad company must furnish the doctor if it pays him, and just as often for two years as claim agent wants to have the employee examined he will have it done.

There are some expert physicians and there are some expert witnesses who are physicians, and to their examination he must submit, and when he gets his judgment it is not final. They can literally wear him out. I said that the imagination could not suggest anything to add to this bill that would help the claim agent make the man who was hurt take anything that was offered to him.

Mr. SMITH of South Carolina. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield further to the Senator from South Carolina?

Mr. SMITH of Georgia. Certainly.

Mr. SMITH of South Carolina. I think it would be enlightening to compare this particular feature of the bill with the existing law. When there is a suit and judgment is rendered under the existing law, that is final.

Mr. SMITH of Georgia. Unless it is taken to a higher court.

Mr. SMITH of South Carolina. Unless it is taken to a higher court, and there is some grounds to set it aside; but when we have adjudicated, that is the final settlement of the question, and the plaintiff knows exactly what he has and there is no possibility of a reopening of the case. Why is it that the limitations do not apply in the present law as in this proposed law?

Mr. SMITH of Georgia. Under the existing law one trial, unless set aside, is final. Under the proposed law there can be two trials arbitrarily before a first judgment, and then the subsequent right for two years, just as often as the railroad company wants to do it, to carry the employee before this trial judge without a jury and have a rehearing, and a rehearing, and a rehearing. They were not content with saying that they could do it one time; it is from time to time that they are to do it. And this is your workmen's compensation law.

Mr. CULBERSON. I will ask the Senator from Georgia——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Texas?

Mr. SMITH of Georgia. Certainly.

Mr. CULBERSON. I will ask the Senator if he construes section 11 that in the case of an application for a new trial before the adjuster there is any jury trial provided at all at that?

Mr. SMITH of Georgia. I do not know what it means. It does not say.

Mr. CULBERSON. The language is:

> The findings of the adjuster upon such review shall be served on the parties and filed with the clerk of the court having jurisdiction, in like time and manner and subject to like disposition as in the case of original findings.

But so far as I can see this section does not provide for a jury trial upon such a review and refinding by the adjuster.

Mr. SMITH of Georgia. I suppose they would be obliged to allow an appeal in each instance or else it would clearly be unconstitutional, if it is not clearly unconstitutional anyhow. That is an open question. That is one of the questions to be litigated by this bill that is lauded in a bill to terminate litigation. That is one of the things that is left in the air by this perfect measure that can not wait until next December for further consideration and investigation.

If a case on rehearing goes on up to the district court, then that means another expense to the plaintiff. If it does not go up then that means that arbitrarily the trial judge without a jury, called adjuster, can finally put the employee injured wherever he sees fit.

Mr. DAVIS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Arkansas?

Mr. SMITH of Georgia. Yes.

Mr. DAVIS. I should like to have the Senator from Georgia draw the contrast sharply, if he will, between the conditions under the present law and what may be obtained under this mode of procedure. As I understand it, under the present law——

Mr. SMITH of Georgia. I do not wish to yield to anyone to make a speech at this time.

Mr. DAVIS. The Senator from Georgia can do that much more admirably than I can, and I would be glad to have him do it.

Mr. SMITH of Georgia. I tried to do that in my discussion of this case several days ago, which went into the RECORD and has been printed. It would take me quite a length of time to go over that question again. I wish to say to the Senator from Arkansas that I discussed very elaborately about three weeks ago that branch of the case, and it is in the RECORD; and it would require very much more time than I would wish now to give to go into it further.

As to the mere matter of procedure, there is a difference which I am pressing and which I did not press then—I believe the Senator from Arkansas had reference to the matter of procedure more than to anything else. Under the existing law an injured employee can sue in the State courts and try his case before a jury of his neighbors, who know him and know his character, and have one verdict, if it is not set aside, and that is the end of litigation. The case can not be removed to the United States court. Under this bill—

Mr. DAVIS. Right there, I suggest to the Senator from Georgia that under one procedure the man gets the money and puts it in his pocket and under the other it drags along two years, because he is paid month by month.

Mr. SMITH of Georgia. I am not prepared to say whether, in some instances, it would not be better to let them receive their pay not all in a lump sum. I am not pressing a final discussion of that question.

Under this bill, instead of the right of trial by jury in your own State courts, the employee must go before this trial judge, without a jury, appointed by the district court judge. He has no means to get the testimony of a witness by depositions or by interrogatories. Counsel making suggestions for the railroads, I suppose, knew that they could bring all their witnesses by train and they did not need depositions and interrogatories. His case can be forced into a second trial by an appeal to the district court before a jury. Then he can be brought before this adjuster for another hearing, and it may go up probably, and from time to time during the whole of two years he can be kept trying and trying and trying his case, and be examined and examined and examined by the physicians of the railroad company. And this is to be made the exclusive remedy for these men.

I have called attention to the fact that in all of these hearings certainly for some time the law will be unsettled as to what classes of employment and what classes of work will be covered by the act. The facts will be open for discussion and for litigation. The question of drinking, the question of intent, will still be left open. If the man is to be paid whose gross negligence causes the accident, why should not the man also be paid who took a drink? I am opposed to hiring a man on a railroad that takes a drink in service; but if this bill is so beneficent and wishes to take care of the man whose gross negligence is the exclusive cause of the injury, why strike out the man who took a drink?

How the injured employee at the time was employed is a question which will be open for litigation. Then what was the nature of his injury. Was it partial or total? Was it permanent or temporary? All these questions must be settled by this trial judge without a jury.

I do not think the counsel for railroads are fond of juries, and I should think they would be delighted with a trial judge without a jury.

Now, let me call your attention to the fact that the great bulk of injuries are injuries not referred to at all in these schedules of payments contained in the proposed bill.

Again, using Mr. Whiting's figures, of the injuries he settled 37,099 were temporary injuries while only 1,527 were permanent. This bill provides no schedule for any temporary injury. The amount of payment of every temporary injury is left perfectly open by this bill and a large part of permanent injuries are left open. Yet in the classification of 40,000 injuries that it was necessary for the railroad to settle, 37,000 of them were temporary injuries. This bill fixes no compensation at all for any of these cases.

With this trial judge without a jury, appointed by the Federal court judges to try the cases, and with the opportunity furnished to harass these 37,000 men who have temporary injuries, the injured employee will say: "I can not do anything; I am helpless; you can literally wear me out. I will take anything and go. You can furnish machinery to so harass me that I am at the mercy of the claim agent. Whatever the claim agent offers I must take."

According to Whiting's showing, over one-third of the entire amount that he paid out for injuries on the roads were temporary injuries. Gentlemen have talked about this bill increasing the burdens of railroads $5,000,000, without anything to base the statement on, until some of them actually believe it is so, and they have actually caused the President to publish that this bill will increase the amount the railroads will have to pay $5,000,000. I utterly repudiate such a proposition. There is not a thing to base it on. No one knows what the present legislation will make the basis of compensation, because it has not been tried, and they do not know what will be done by the claim agents under this proposed bill, and when they talk about increasing burdens $5,000,000 I am willing to attribute to most of them lack of knowledge and not insincerity of the statement.

At the outset of this discussion, when the bill was first mentioned upon the floor, I questioned the accuracy of that statement by the Senator from Utah, and after examining the record I see that he has nothing to base it on.

Mr. REED. Mr. President——

The PRESIDING OFFICER (Mr. NELSON in the chair). Does the Senator from Georgia yield to the Senator from Missouri?

Mr. SMITH of Georgia. I do.

Mr. REED. If I am not interrupting the Senator, as applicable to the point he has just made, viz, that more settlements are now made than will be made under the pending bill, I desire, with the Senator's consent, to read a statement from Mr. R. C. Richards, the claim agent of the Northwestern Railway, made at the claim agents' meeting on the 25th to 27th of May, 1910. I read it in corroboration of the figures the Senator has given and of his statement. Mr. Richards said:

> But there are one or two points I would like to make in connection with the subject; that is, that these new statutes—

That is, the Federal statutes—

> have practically taken away the defenses of fellow servant, assumption of risk, and contributory negligence. In other words, they have practically given every employee who is injured a right of action if there is any negligence on the part of the employer. That is about where we have gotten to. That being so, it becomes essential and extremely necessary that the claim departments and men connected with claim departments be efficient and capable. That instead of making lawsuits we should make settlements. We all know how many claims a $10,000 verdict will settle. We all know that every time we have a personal injury of any severity and we have litigation we are running the risk of a $10,000 verdict—

He might have said a $50,000 verdict.

> We all know how hard it is to get a verdict set aside after it is rendered. Therefore it seems to me it is essential that we should settle more cases and have less litigation. And in order to settle cases the claim department must be efficient. It must investigate cases to-day that have occurred on yesterday, and not next year, because next year the witnesses are scattered and the lawsuit has commenced and the people have been told what to testify to in order to make a case.

I pause here long enough to say that one question solemnly discussed by these claim agents was the availability and value of witnesses who frequently came to them offering to sell their testimony. I proceed with the reading.

> It is therefore important, it seems to me, that the investigation should follow immediately after the accident, and that when the facts are arrived at so that the man who is to adjust the claim can pass on it, the settlement should follow immediately after the investigation.

Now, note this language:

> Now, I think during the last 10 months the line I represent has had some 6,000 or 7,000 employees injured and something like a hundred killed, and out of that vast number of injured and killed, and that is about 80 per cent of our personal injuries, we had 40 lawsuits, and I think we had that small number of lawsuits because of the efficiency of the men who are working under me and their promptness in settling claims.

I think that fully sustains the Senator in his position that the present law makes for settlement, while the proposed law probably will make for litigation.

Mr. SMITH of Georgia. Mr. President, there will not be any trouble about the fact that cases are going to be settled if the law is allowed to remain. The trouble is if they can not pass this bill.

Mr. OVERMAN. Mr. President, I suggest the want of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

Mr. REED. If in order, I should like to make a motion that we take a recess until 2 o'clock, and on that we can have the call of the yeas and nays.

The PRESIDING OFFICER. The suggestion is made that there is no quorum. Under the rule the roll must be called. Of course, if there is no quorum, the Senate can not take a recess.

Mr. SMITH of Georgia. But we can adjourn.

The PRESIDING OFFICER. The Senate can adjourn, but it can not take a recess. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Culberson	Lodge	Root
Bacon	Cullom	Martine, N. J.	Sanders
Bourne	Cummins	Myers	Shively
Brown	Fall	Nelson	Simmons
Bryan	Fletcher	Oliver	Smith, Ariz.
Burnham	Gardner	Overman	Smoot
Burton	Guggenheim	Owen	Stephenson
Catron	Hitchcock	Page	Sutherland
Chamberlain	Johnson, Me.	Penrose	Townsend
Chilton	Johnston, Ala.	Percy	Warren
Clapp	Jones	Perkins	Watson
Clark, Wyo.	Kern	Pomerene	Wetmore
Crawford	Lea	Richardson	Williams

Mr. TOWNSEND. I desire to announce that the senior Senator from Michigan [Mr. SMITH] is absent on business of the Senate. I should like to have this announcement stand for all votes taken to-day.

Mr. JONES. I desire to announce that my colleague [Mr. POINDEXTER] is detained from the Chamber on important business.

The PRESIDING OFFICER. Fifty-two Senators have answered to their names. A quorum is present.

Mr. REED. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Missouri?

Mr. SMITH of Georgia. Yes.

Mr. REED. I think it is only right that the Senator should be allowed time to get his lunch.

Mr. SMITH of Georgia. I thank the Senator, but that is entirely unnecessary. I am not the least bit fatigued. A few hours on my feet will not fatigue me physically at all.

Mr. SUTHERLAND. I will say to the Senator that if he himself desires to get luncheon, I certainly will not object to a short recess.

Mr. SMITH of Georgia. I believe that we always ought to have a recess from half past 1 to 2, so that Senators may eat lunch at the same time and get back to the Chamber. I thank the Senator for his suggestion, but it is not essential.

Mr. REED. Mr. President, it is essential to some of the rest of us.

Mr. SMITH of Georgia. Then I accept the suggestion.

Mr. REED. I move that we take a recess until 2 o'clock.

Mr. SMITH of Georgia. The Senator from Utah made a suggestion.

Mr. SUTHERLAND. I do not object to that, Mr. President.

The PRESIDING OFFICER. What is the suggestion?

Mr. SUTHERLAND. That a recess be taken until 2 o'clock.

The PRESIDING OFFICER. The Senator from Missouri moves that the Senate take a recess until 2 o'clock.

Mr. REED. I will modify the motion to provide for a recess until half past 2, if that suits the Senator.

Mr. SUTHERLAND. Very well.

The PRESIDING OFFICER. The Senator from Missouri moves that the Senate take a recess until half past 2. [Putting the question.]

The motion was not agreed to.

Mr. SMITH of Georgia. Mr. President, I do not think Senators knew that was the suggestion of the Senator from Utah.

I have been endeavoring to bring to the attention of the Senate, first, that the litigation under our present laws is rapidly decreasing; that the policy of the railroads more and more is to settle; that a very small proportion of the cases are now litigated; and that with the employers' liability law established litigation will practically be a thing of the past and settlements will be the general practice. I also have undertaken to bring to the attention of the Senate the fact that under this proposed law there is an almost limitless field for litigation; that you are moving out into an unexplored territory; that you are putting upon the country a new bill with many terms in it which are unsettled; and that the litigation will be far more under the new bill than it is to-day.

I wish to call the attention of the Senate to the experience of England under the workmen's compensation act. If you will turn to the record of the testimony before the committee, you will find complaint that there is a great increase of litigation in England; that the litigation there is now rapidly increasing and not decreasing under the workmen's compensation act. You will find also that in Germany, during 1907, the last year for which I have the statistics, 70,000 cases were litigated and 19,504 were appealed to the higher courts under the workmen's compensation act. This theory that you have found something that will end litigation, tested by experience, is a mere piece of imagination. If we are to have a bill that ends litigation, we must have something different from what has been presented here.

Mr. REED. Mr. President, I renew——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Missouri?

Mr. SMITH of Georgia. Yes.

Mr. REED. I renew my motion that the Senate take a recess until 2 o'clock.

The PRESIDING OFFICER. The Senator from Missouri moves that the Senate take a recess until 2 o'clock.

Mr. REED. I will suggest quarter past 2—that is only a few minutes.

The PRESIDING OFFICER. The Senator from Missouri moves that the Senate take a recess until quarter past 2 o'clock. [Putting the question.] By the sound the noes have it.

Mr. REED. Mr. President, I raise the question of no quorum.

The PRESIDING OFFICER. The suggestion is made that no quorum is present. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Cullom	McLean	Smith, Ga.
Borah	Curtis	Martine, N. J.	Smith, S. C.
Bourne	Davis	Myers	Smoot
Bristow	Fall	Nelson	Stephenson
Brown	Fletcher	Oliver	Sutherland
Bryan	Foster	Page	Thornton
Burnham	Gallinger	Penrose	Tillman
Burton	Gronna	Percy	Townsend
Catron	Guggenheim	Perkins	Warren
Chamberlain	Johnson, Me.	Reed	Williams
Clapp	Johnston, Ala.	Richardson	Works
Clark, Wyo.	Jones	Root	
Clarke, Ark.	Lea	Sanders	
Crawford	Lodge	Smith, Ariz.	

Mr. JONES. I will state that my colleague [Mr. POINDEXTER] is detained on public business.

The PRESIDING OFFICER (Mr. GALLINGER in the chair). Fifty-three Senators have answered to their names. A quorum is present.

Mr. SMITH of Georgia. Any Senator who desires to examine the question can find on page 568 of the record quite an elaborate discussion of the distressing increase of litigation that has taken place in England under the workmen's compensation act.

Mr. REED. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Missouri?

Mr. SMITH of Georgia. Certainly.

Mr. REED. I move that we take a recess until a quarter past 2, which is a half hour. It will not make for delay. I think it will facilitate the business of the Senate.

The PRESIDING OFFICER. The Senator from Missouri moves that the Senate take a recess until a quarter after 2 to-day. [Putting the question.] The noes appear to have it.

Mr. SMITH of Georgia. I call for a division.

There were on a divison—ayes 10, noes 16.

Mr. SMITH of Georgia. I wish to say that many more than 10 voted in the affirmative. I call for another count simply to test that question.

Mr. MYERS. I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. RICHARDSON (when Mr. DU PONT's name was called). My colleague [Mr. DU PONT] is necessarily absent from the city. He is paired with the Senator from Texas [Mr. CULBERSON]. If he were present my colleague would vote "nay."

The roll call was concluded.

Mr. CLARK of Wyoming. I am paired with the Senator from Missouri [Mr. STONE]. I transfer the pair to the junior Senator from Iowa [Mr. KENYON], and will vote. I vote "nay."

Mr. OWEN. I transfer my pair to my colleague [Mr. GORE], and will vote. I vote "yea."

Mr. LEA. I have a general pair with the Senator from Rhode Island [Mr. LIPPITT], which I transfer to the senior Senator from Virginia [Mr. MARTIN], and will vote. I vote "yea."

Mr. CHILTON. I have a pair with the senior Senator from Illinois [Mr. CULLOM].

Mr. WATSON. I have a pair with the senior Senator from New Jersey [Mr. BRIGGS], which I transfer to the senior Senator from Maryland [Mr. RAYNER], and will vote. I vote "yea."

Mr. SWANSON. I desire to ask whether the junior Senator from Nevada [Mr. NIXON] has voted?

The PRESIDING OFFICER. The Chair is informed he has not.

Mr. SWANSON. I have a general pair with him, and withhold my vote.

Mr. JOHNSTON of Alabama. I wish to announce for the day the pair of my colleague [Mr. BANKHEAD] with the senior Senator from Idaho [Mr. HEYBURN], and the pair of the Senator from Texas [Mr. BAILEY] with the Senator from Montana [Mr. DIXON].

The result was announced—yeas 26, nays 39, as follows:

YEAS—26.

Ashurst	Fletcher	Newlands	Smith, Ariz.
Bryan	Hitchcock	Overman	Smith, Ga.
Chamberlain	Johnson, Me.	Owen	Thornton
Clapp	Johnston, Ala.	Pomerene	Tillman
Clarke, Ark.	Kern	Reed	Watson
Davis	Lea	Shively	
Fall	Myers	Simmons	

NAYS—39.

Borah	Cummins	Nelson	Smith, S. C.
Bourne	Curtis	Oliver	Smoot
Bristow	Dillingham	Page	Stephenson
Brown	Foster	Paynter	Sutherland
Burnham	Gallinger	Penrose	Townsend
Burton	Gronna	Percy	Warren
Catron	Guggenheim	Perkins	Wetmore
Clark, Wyo.	Jones	Richardson	Williams
Crane	Lodge	Root	Works
Crawford	McLean	Sanders	

NOT VOTING—30.

Bacon	Cullom	La Follette	Poindexter
Bailey	Dixon	Lippitt	Rayner
Bankhead	du Pont	Lorimer	Smith, Md.
Bradley	Gamble	McCumber	Smith, Mich.
Brandegee	Gardner	Martin, Va.	Stone
Briggs	Gore	Martine, N. J.	Swanson
Chilton	Heyburn	Nixon	
Culberson	Kenyon	O'Gorman	

So the Senate refused to take a recess.

Mr. SMITH of Georgia. I desire to thank the Senators on the other side for the courtesy they have shown me in giving me an opportunity to get lunch. But I rested without it. The suggestion of a recess did not originate on this side. The Senator from Utah [Mr. SUTHERLAND] first suggested it, and the suggestion having come from him, we supposed it would be agreeable to the other side; else we would not have acted upon the suggestion at all.

Mr. SUTHERLAND. As I came into the Chamber the Senator from Georgia was mentioning my name. I did not catch in what connection.

Mr. SMITH of Georgia. All I said was that we would not have suggested a half hour for lunch except that the Senator from Utah kindly did, and we appreciated it, and after a little reflection determined to accept the suggestion.

Mr. SUTHERLAND. The Senator is quite right. I was sitting on that side, and I said I would not object to it, but I——

Mr. SMITH of Georgia. At first I felt we should not accept it, and I so indicated to the Senator, but after a moment's reflection I felt it would be so refreshing that we should be glad to accept it.

Mr. SUTHERLAND. I found the sentiment so decidedly against postponing the consideration of the measure that I yielded.

Mr. LODGE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Massachusetts?

Mr. SMITH of Georgia. Certainly.

Mr. LODGE. Without any reference to taking a recess to-day, I should like to remind the Senate that we have been accustomed for many years to meet at 12 o'clock, and this meeting at 2 is an innovation. Never in my time in this body has the Senate taken a recess for luncheon for anybody, because it would break up all business during the day to take a recess during the middle of the session for that purpose.

We shall have to go along meeting at 12 o'clock to do the business, and I think it would be a great mistake if we should establish the practice of taking a recess for luncheon in the middle of the day's work when we meet at 12 o'clock. My objection is to a general practice of that kind and not to any specific case.

Mr. BACON. While it is true it has not been the practice——

Mr. LODGE. It has been done just once. I know the case, which occurred a very short time ago, and the time it took to do it then; and I was surprised——

Mr. BACON. It was done several years ago.

Mr. LODGE. It was done, I thought, within a year or two. It was done three years ago, the Senator from Kansas says. The Senator's service has been long here, and I venture to say that in all that time that is the only case.

Mr. BACON. It is the only case.

Mr. LODGE. I never heard of the House or the Senate doing it, and I think it would be a great interruption of public business when we meet at 12 o'clock.

Mr. BACON. I was simply correcting the Senator's statement, for I understood him to say that it never had been done.

Mr. LODGE. I knew of that one case.

The PRESIDING OFFICER. The Senator from Georgia has the floor.

Mr. SMITH of Georgia. Mr. President, I have been endeavoring to bring to the attention of the Senate the fact that the whole tendency under existing legislation is a decrease of litigation. I think I have established by the evidence in the RECORD that the amount of litigation now going on over these personal-injury cases against railroads is far less than the suggestion would indicate. I have also undertaken to show that under the pending bill there would necessarily be a great deal of litigation. I have called attention to the fact that in Germany the litigation is very great and that it is increasing in England.

The most shocking part of the facility for litigation under this bill grows out of the right not only to have the case tried once but over and over and over again for two years, at the option of the railroad companies.

I called attention to the fact that the provision for service was defective in this bill. I want to renew that suggestion. There is no definite provision for service of process in this bill which meets the requirements of conditions as they exist. Most of the corporations operating railroads throughout the country have their principal office away from the State in which the operation takes place. There is no provision in the bill that service can be made upon the local agent or representative of the railroad company doing business in the State.

The notice required from employees of their injuries is of a character liable to cause trouble and to forfeit their rights. There is no suggestion in the bill that the railroad company should furnish the employee also with a definite statement in its possession as to whether the railroad company will claim that the accident occurred while the employee was under the provisions of this law or under the provisions of some other law.

I desire to discuss briefly the amount of the compensation allowed to employees under this bill. Take the case of an engineer, who is killed, making $200 a month, $2,400 a year. On the basis of 4 per cent the present value of the annuity covering his income would be $35,000. If he is killed the bill gives his widow $3,800, payable monthly, for eight years. If she has children it is $4,800, at $50 a month. The present value of the life of the deceased was $35,000. The compensation the bill allows to the widow and children is $50 a month until it amounts to $4,800, subject to cease if the widow marries or dies or the children arrive at the age of 16.

Take the case of an engineer losing his foot above the ankle. His compensation, at $50 a month, would be $2,800. Unquestionably his capacity to work is half gone, if not more. His financial loss alone is between $15,000 and $17,000. This bill allows him $2,800, payable $50 a month. Under the existing law he has an absolute right to recover; his recovery would easily be for such an injury $15,000 or more. He could settle to-day for $10,000 to $15,000. This bill cuts him to $50 a mouth until he gets $2,800.

It is a harder bill than the English law in every way. Compare the salaries of our men and the compensation in England and the amount there allowed is much more to the benefit of the employee.

I desire to state that the compensation under the English employers' liability act and under the English workmen's compensation act are not the same. The compensation in some respects is better in England under the employers' liability act. Under the employers' liability act in England the total sum of three years' previous salary could be recovered, which would be $7,500. In the case of the engineer to which I referred—and this sum can be paid for any injury where the proof justifies it—$7,500 could be recovered under the English rule. It is cut down to $2,800, arbitrarily cut down, by this proposed bill. The engineer who has a permanent injury that disables him for life is cut down to $600 a year.

What are those permanent injuries recognized by this bill? Both legs off, both hands off, both eyes out, being injured to such an extent that both limbs are completely paralyzed. What about the other injuries? Even for the extreme injuries I have mentioned it is only $600 a year, where the man's income before was $2,400.

If you will compare the schedules fixed by this bill with the pension schedule you will find that it is not half as large as the pension schedule. Five hundred thousand pensioners take care of the pension schedule. There are 1,800,000 employees of rail-

roads to take care of this schedule, and they will take care of it, and they are entitled to a hearing on it, and they have not had it. You will cut them off for two weeks after injury with nothing. The German law has a provision which takes care of them for three months. I insist, Mr. President and Senators, that in any wisely constructed workmen's compensation act the first thought should be to care for the man at once after the injury a reasonable time while he is perfectly helpless, and instead of proceeding upon the theory that you will cut him off for a certain number of weeks with nothing for fear that he may be malingering, treat him like he is an honest man and you will be more apt to make him an honest man. Treat him like he is dishonest and the effect of your treatment will be demoralizing upon him.

So you see, Senators, this bill cuts down 80 per cent at least the recovery of a number of men. What excuse is there for it? What are you taking away their present rights from them for? You know they do not understand it or they would not approve of it. You know that the engineer who learns that you propose to give him $2,800 in $50 installments for the loss of his hand or his foot will rise in indignation against this measure and against the men who put it on the statute books. If Senators would only listen they would stop and they would not pass it.

The committee has gotten it up and it seems to be the plan to just put it through without reflection or consideration by those who intend to vote for it. If they would scan its detailed provisions they would not approve it. Compare it with the schedule of compensation to pensioners for the loss of a limb. There is an elaborate schedule of compensation for pension injuries. Take other schedules of compensation for injuries. You are putting a burden on these men by the cold, hard limitation of their rights. You have arbitrarily said that no man shall be considered as making over $100 a month, no matter how great his injury, and you will allow him but half of the hundred, $50 a month, for complete and total loss of the capacity to work.

Then you have said that if he suffers the loss of an arm or a leg, though the loss is a permanent injury, though you know it cuts him down one-half, you will give him only $50 a month for a few months, instead of for life. The soldier who has lost an arm or two arms gets his $100 a month the balance of his life, and so on the compensation comes for life. What is to become of the one-armed and the one-legged railroad men when the time arrives that the meager allowance you give them shall cease? What is to become of the widows when the eight-year period is out?

The committee had before them statistics to show that the average widowhood period of an employee of the railroads who is killed on the railroads is 15 years, and yet they cut her to a meager sum for 8 years.

[At this point a message was received from the House of Representatives, which appears elsewhere.]

Mr. REED. Mr. President, I raise the question that there is no quorum present.

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Bacon	Dillingham	McLean	Root
Borah	Fall	Martine, N. J.	Sanders
Bourne	Gallinger	Myers	Shively
Bradley	Gore	Nelson	Simmons
Bristow	Gronna	Newlands	Smith, Ariz.
Brown	Guggenheim	Oliver	Smith, Ga.
Bryan	Hitchcock	Overman	Smoot
Burton	Johnson, Me.	Page	Stephenson
Chamberlain	Johnston, Ala.	Paynter	Sutherland
Clapp	Jones	Percy	Swanson
Clark, Wyo.	Kern	Perkins	Thornton
Clark, Ark.	Lea	Poindexter	Townsend
Crawford	Lodge	Reed	Warren
Curtis	McCumber	Richardson	Works

The PRESIDING OFFICER. Fifty-six Senators have answered to their names. A quorum is present. The Senator from Georgia will resume.

Mr. SMITH of Georgia. Mr. President, just to let Senators see that already the men are beginning to know something about it, I will send to the Secretary's desk a letter to be read which has just been brought to me from Buffalo, N. Y.

The PRESIDING OFFICER. Without objection, the Secretary will read as requested.

The Secretary read as follows:

BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN,
ERIE SYSTEM,
Buffalo, N. Y., May 3, 1912.

Hon. HOKE SMITH,
Senate Chamber, Washington, D. C.

YOUR HONOR: At a regular meeting of J. G. Hubbard Lodge, Brotherhood of Locomotive Firemen and Enginemen, it was requested of me to thank you for the fearless stand you took in behalf of the many railroad employees, and we trust will meet with success in defeating the workmen's compensation act in its present stage.

The employers' liability act has been a blessing to employees and their families, and to take that from them would be an unworthy act.

Thanking you once more for our membership's interest, I wish to thank you for the families of employees.

With best wishes, and trusting your term in the United States Senate will be of many years,

Very respectfully,
H. P. HANVEY.

Mr. SMITH of Georgia. Mr. President, I had about completed the criticism that I wanted to make upon the effect of this bill in cutting down the compensation of the men. It is perfectly apparent that to arbitrarily say none of the high-class employees of the railroad companies shall be considered as making over $100 a month, and then to say that in case of complete and permanent total disability the compensation shall not be to any of them more than $50 a month is to take from them their present rights, and then to say that except in the case of total permanent disability you will give this meager $50 a month for one or a few months is to utterly disregard any fair spirit of compensation. If the man has a permanent loss of a part of his body which is to incapacitate him to a certain extent all of his life, why limit his compensation to a small sum monthly for a few years? If his arm is gone or if his leg is gone and half of his capacity to labor is gone, why say that you will arbitrarily consider him as not having made over $100 a month, and then arbitrarily say you will only allow him one-half of that, and then arbitrarily say that you will allow him that half but a few months, unless your purpose was to prevent his compensation, unless your purpose was taking away from him his present rights, to give him a mere bagatelle in its place.

Yet that is what this bill will do. You have an engineer making $2,400 a year. His leg has been cut off in a case where he is entirely free from fault, and this bill would give him $2,800, payable at $50 a month, when his financial loss as the result of cutting off his leg is between $15,000 and $17,000. Estimating that he had only lost one-half of his earning capacity and giving him the present value of that earning capacity at the age of 45——

Mr. CHAMBERLAIN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Oregon?

Mr. SMITH of Georgia. Yes.

Mr. CHAMBERLAIN. I should like to ask the Senator if he knows what proportion of engineers now who may be injured get nothing under the law of 1908?

Mr. SMITH of GEORGIA. No; and nobody else knows. There are very few in my section of the country. It is the rarest thing in that section that an engineer gets nothing, and it is the rarest thing that he has a lawsuit. There is scarcely a chance under the present law for him to lose. He can never lose except where the accident is the sole and exclusive cause of his negligence.

The theory about mere accidents with nobody to blame I take no stock in. Accidents do not happen except where somebody is at fault. Either proper machinery has not been furnished or proper rules have not been given or proper work under those rules has not been done. I believe it is a safe proposition to say that in cases of engineers not 10 per cent of them are injured where they can not recover, and if the accident is due solely to the negligence of the engineer who is hurt, I deny the soundness of the proposition that the man who is injured without fault shall have 80 per cent of his rights taken away from him under the claim that you propose to compensate somebdy who could not before have recovered.

As to the class of men to whom I am referring, it is a low estimate that the bill you are pressing will take 75 per cent of their rights from them. If you wish to give something to the man whose negligence was the sole cause of the accident, it ought not to come out of the man who was not negligent at all. Is not the compensation to the negligent to be given as a matter of public policy? Must you not justify that as a matter of public policy, and ought not the charge to either be levied on the Treasury of the United States or on commerce?

What excuse is there to take it, and take it twice, from the man who was free from fault? The excuse for this measure is that you are going to take care of somebody who heretofore was not taken care of. That somebody is the man injured exclusively by his own fault or by accident.

As I said before, accidents without faults are very rare. Somebody is negligent when these injuries take place. The real beneficiary is the man who is the exclusive cause of his own injury. Now, broaden the law, if you please, to care for the man whose negligence was the exclusive cause of his own injury; but when you do that, do not take it twice from the pocket of the man who was not at fault. If it is to be done as a matter of public policy, let commerce stand it. Do not grind

labor. Do not put the iron into the wives and children and into injured men who are free from fault.

It is incomprehensible to me that Senators who I know are filled with regard for their fellow men can be willing to put this burden on these men. I have heard some of them excuse themselves upon the theory that if we who oppose the bill are right the burden will be taken off after a while; but what about the men who are hurt in the meantime? Why is it you are not willing to let the present law stand and add this proposed law? You do not want it to stand, because you want to cut down the rights of the men under the present law. That is the only reason for it. The present law can not stand, because you want to take the rights of the men under the present law to furnish the money for the new men you are going to compensate under the new law; and these new men you are going to compensate under the new law are the men whose negligence is the sole cause of the catastrophe. And you are reducing compensation to those now entitled to recover far more than is necessary to provide payment for the negligent. Ah, Senators, if we could have a hearing, if men would listen, they would not vote for such a proposition.

I can understand how a man who has helped work this bill out, who is, in a sense, its father, becomes blinded to its faults, as the parent is blinded to the faults of his child, as the mother can see no evil in her offspring; but there are Senators on the other side who are voting for this measure whose hearts are full of love for their fellow men, whose consciousness of what is right and whose desire to serve the human race moves them in all they do, and if we could only have a hearing from them, if they could only be induced to consider this question, they would not do this thing; they would not allow it done.

It is perfectly easy to provide this additional privilege to the negligent. This bill will provide for that, but if you want to provide for the negligent without taking the rights of the vigilant, leave the vigilant the laws they have—that is all. Let the existing law stand, and pass this bill. You will then have provided for the negligent without encroaching upon the rights of the vigilant.

Senators, is it right to take away from the vigilant railroad men to give to the negligent? Ah, I want to tell you, you take it twice over from them; you take $2 from them every time you give a dollar to the negligent; you give $1 to the railroad company and $1 to the negligent by the bill you are about to pass. Pass the bill, provide for the negligent, but leave to the vigilant the rights they have under existing laws. Let us find out how the new measure is going to work before we take away from the employees of the railroads the laws already given them, before we take away their rights which have been established by the courts. Let us not throw them out into this new sea of doubt, stripped of their established rights.

I can understand why the railroads are not fighting this measure. I can understand how their claim agents and their general counsel are chuckling over it. I understand why a large part of the million seven or eight hundred thousand employees are not protesting against it; but I have not any doubt about their protesting in the course of the next few months. And you will not let it go over to hear from them; you will not give them time that they may consider it.

If I were considering this question purely from a political standpoint, I would welcome such action from the other side of the Senate. I am not afraid but that long before November the man or the party that presses this bill will be punished for doing so; but I would rather see the rights of these men cared for without regard to party; I would rather see them protected than to name a President. I can not forget that when, almost a boy, with practically nothing, I came to a great city they were my first friends and gave me my first small fees that helped to enable me to meet my monthly expenses, and if they are ground down and if the burdens of this bill are placed upon them, I can grieve with them, and only regret that I did not have the capacity to bring it to the attention of Senators that they might realize what they were doing.

I have said that the provision for service in this bill was defective. If you will turn to page 25, section 7, any lawyer in this body who will study that section will see that he would not know how to have a defendant corporation served. There is no designation of the officer to be served. It reads:

(7) Any petition may be served by the United States marshal for the district where the proceedings are pending, or by any deputy.

Any subpœna, process, or order of an adjuster, or any notice or paper requiring service, may be served by such United States marshal or deputy, or by any citizen of the United States over the age of 21 years, being a resident of such district, or by registered mail sent by the adjuster to the person or employer to be served, postage prepaid, and addressed to the principal place of business of such employer or to the place of residence of such person.

Where is the principal place of business? Where is the principal office? It may not be in your State. There ought to be provision made for service on the agent of the railroad in the district where the accident occurs. There ought to be careful consideration of the question as to the class of agents upon whom service could be had in the various districts, and facilities for service ought to be provided. I mention that, Senators, simply to show that while at every point the railroad's right has been guarded, there has not been the same study incident to the other side. I do not mean any criticism upon the framers of the bill; but the representatives of the corporations were there suggesting, suggesting, suggesting, and whenever you come to suggestions from their trained representatives and suggestions from one or two men who are the heads of the brotherhoods an unequal match has taken place, and the one side is guarded while the other is neglected. I would not know how to advise a service in my State on half the railroads doing business there.

I made some reference to the English law. I find volumes of decisions of cases carried to the courts on account of the English workmen's compensation act. I find that it is more liberal than this bill by far, in that it leaves a considerable sum that might be recovered, even for a minor injury, and, therefore, if an employee goes into court there is room for him to move his damages up to a considerable sum, even though his injury was not a complete disability. They give a limit for complete disability, but they leave all other disabilities only limited by the compensation for a complete disability. If we were to apply the same rule, we would fix the highest compensation at $50 a month for the wife of the man injured and we would cut nobody below that, but leave every other injury that latitude toward which to reach as a basis for settlement. This bill undertakes to cut everybody down to small and limited payments for short periods, thereby being differentiated from the English law, and the differentiation classes it as less favorable to the employee.

Now, if you turn to the English employers' liability act you will find that the limitation there is the past three years' income of the injured employee, and any employee for any kind of injury is only restricted to not more than three years' income; so that the engineer to whom I have referred, for any injury he had received, would have the latitude of $7,500 as compensation, while it is here proposed to give him less than that for his greatest injury, and arbitrarily to say that it shall be much less than that for subordinate injuries. The English employers' liability act and the English workmen's compensation act differ in the amounts which can be recovered. The Senator from Utah was mistaken when he said that the compensation provided by the two acts was the same.

The most vital part of the English workmen's compensation act is that it preserves all the existing rights under other laws to the employees. Here it is, Senators [exhibiting]; I have brought the volume here. The English workmen's compensation act is in addition to their rights at common law and their rights under the employers' liability act. This bill does not compare with the English law in its kindly treatment of the employees. This bill is only applied to railroad men, the highest class of employees we have, while the English law applies to all workmen and literally goes to the extent of taking care of them in cases of sickness, not from physical injury but from diseases developed along the line of their work. Our law is harsh almost to the extreme as compared with the English law.

If the Senator would accept the principle of the English law, I would vote for his bill. If he would accept the principle of leaving existing remedies and letting it work out in that way, I would vote for this bill, because I would know that in most instances they would shun his bill until we improved it. I would know that the burdens of this bill would not fall on them unless they voluntarily took it. I do hope Senators will stop before they put this measure on these people. I do hope they will hesitate at least and give a little more thought to it, even if they have not appeared to be giving much attention to it except to respond to roll calls and uniformly and solidly vote to press forward and to pass it without amendment unless the amendment comes from the committee.

Mr. OVERMAN. And then retire to the cloakroom.

Mr. SMITH of Georgia. And then retire to the cloakroom. We are going to ask you, first, to postpone this bill until December next and give the men a chance to be heard and give us all a chance to study it and work on it and improve it.

Senators, 1,800,000 men are involved, nearly 10,000,000 people altogether, including their families. You have seen that as they find out about it they do object to it. If you have studied this bill, you see there are faults in it. If you are not prepared

to say there are faults in it, you must be prepared to say that doubts are raised. Let it wait until December. We have a right to set it for the first Monday in December and make it still the special order by unanimous consent, to be disposed of at once. I believe in workmen's compensation acts, but I want some compensation to them; I want some benefit to them; I do not want it merely to cut out what they have and do practically nothing toward helping them.

Senators, if you will not let the bill go over until December, then just make one little change in it—strike out section 3, which declares that after the passage of this bill it shall be the only remedy. Why do you take away from them the rights they have? Why do you not leave their present rights to them? If you mean to help them, how can you justify taking from them what they now have? No man can defend his vote on this bill on the ground that he sought to serve the railroad men, when he is asked Why did you vote to make this remedy exclusive; why did you take from them the rights they have under the employers' liability act and at common law? If you will vote for that, we will ask nothing more. You will have your workmen's compensation act; you will have done that for them and taken nothing from them.

They have a right to ask why you take their present rights from them. If you have carefully considered most of the communications coming from these men, you will see that they thought you were giving them something new and not taking away what they had. They did not understand that you were going to take away from them what they already had. If you will read the testimony of the head of the conductors' association, you will see that he begged the commission not to take from them their present rights; you will see that the head of the firemen's association did the same thing; you will see that they did not agree at all to have their present rights taken from them; and when they thought a workmen's compensation act was coming they were expecting a workmen's compensation act in addition to what they had, not as a substitute for what they had. You will find the protest all through the testimony against the small compensation provided, and you will find a very storm of indignation against it when it is understood.

Mr. CLARKE of Arkansas. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Arkansas suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Bacon	Cummins	McLean	Smith, Ariz.
Borah	Curtis	Martine, N. J.	Smith, Ga.
Bradley	Davis	Myers	Stephenson
Bristow	Fall	Nelson	Sutherland
Brown	Gallinger	Oliver	Swanson
Bryan	Gardner	Overman	Thornton
Catron	Gronna	Page	Townsend
Chamberlain	Hitchcock	Paynter	Warren
Chilton	Johnson, Me.	Perkins	Wetmore
Clapp	Johnston, Ala.	Poindexter	Williams
Clarke, Ark.	Jones	Pomerene	Works
Crawford	Kern	Richardson	
Culberson	Lea	Root	
Cullom	Lodge	Simmons	

Mr. SUTHERLAND. I desire to state that my colleague [Mr. SMOOT] is detained from the Senate on business of the Senate.

The PRESIDING OFFICER. Fifty-three Senators have answered to their names; a quorum of the Senate is present.

Mr. CLARKE of Arkansas. Mr. President, I ask unanimous consent that on Monday at 5 o'clock the vote be taken on all pending amendments and the final passage of the bill, and that all amendments intended to be proposed to the bill be presented to the Senate before 3 o'clock on that day.

Mr. OVERMAN. Provided the bill is not postponed to a day definite.

Mr. CLARKE of Arkansas. Certainly.

Mr. SUTHERLAND. Why not say before 5 o'clock? We may get ready to vote before that time.

Mr. CLARKE of Arkansas. Oh, yes; if it is the will of the Senate to vote earlier than that.

Mr. SUTHERLAND. Not later than 5 o'clock, then.

Mr. CLARKE of Arkansas. Not later than 5 o'clock.

The PRESIDING OFFICER. Will the Senator from Arkansas kindly repeat his request?

Mr. CLARKE of Arkansas. I ask unanimous consent that the Senate vote on the pending bill and all amendments not later than 5 o'clock on Monday next, and that all proposed amendments to the bill shall be presented before 3 o'clock on that day.

Mr. SUTHERLAND. Not later than 3 o'clock.

Mr. OVERMAN. Provided the bill is not postponed to a definite time.

Mr. CLARKE of Arkansas. That is part of the existing unanimous-consent agreement.

Mr. OVERMAN. But that will have to go in in the new unanimous-consent agreement.

The PRESIDING OFFICER. The Senator from Arkansas asks unanimous consent that the bill and all pending amendments be voted on not later than 5 o'clock on Monday next, and that all amendments proposed to the bill be presented to the Senate previous to 3 o'clock on that day. Is there objection?

Mr. SUTHERLAND. I think there should be an understanding about the motion to postpone. I do not think we ought to wait for such motion until 5 o'clock or until after the amendments are disposed of. What does the Senator from North Carolina say about that?

Mr. OVERMAN. The motion might be made on Monday morning.

Mr. SUTHERLAND. Monday morning. If that is understood——

Mr. SHIVELY. Is not that illogical? Should not the motion to postpone come after the bill shall have been perfected?

The PRESIDING OFFICER. Is there objection to the request?

Mr. REED. First, I want to understand what is proposed as a unanimous-consent agreement. I do not think it is yet clear. I understood the Senator from Arkansas [Mr. CLARKE] and I understood the Senator from North Carolina [Mr. OVERMAN] to suggest that as a part of the agreement the clause should go in, already in the previous agreement, stating the right to make a motion to postpone to a day certain. Then I understood the Senator from Utah [Mr. SUTHERLAND] to raise some question about that. I should like to have the agreement, whatever it is, stated in concrete form before I yield my consent.

The PRESIDING OFFICER. The only request that has been made, the Chair will say, is that made by the Senator from Arkansas [Mr. CLARKE], that the bill and all pending amendments be voted on previous to 5 o'clock on Monday next and that all amendments proposed to the bill be submitted to the Senate before 3 o'clock on that day.

Mr. REED. That, then——

Mr. OVERMAN. The Senator from Arkansas [Mr. CLARKE] accepted a suggestion, "provided it is not postponed in the meantime."

Mr. CLARKE of Arkansas. It was not my purpose to modify the substantive part of the existing agreement, but merely to modify it by getting an hour fixed for a vote.

The PRESIDING OFFICER. Then, the unanimous-consent agreement would be in about this phraseology: "Provided that the bill, on motion, has not been postponed to a day certain previous to the hour agreed upon."

Mr. SUTHERLAND. I think the Senator from North Carolina and I do not disagree about it. I think there should be also an understanding that if a motion to postpone is made, it should be made during the morning hour—that is, early in the day, before we get to the time to dispose of the amendments.

Mr. OVERMAN. That is satisfactory.

Mr. SHIVELY. The Senate may so perfect the bill that nobody will want to postpone it; may so modify it that every Senator may be satisfied with it. Why limit the right to make the motion to postpone to a period prior to the possible adoption of amendments? If a motion to postpone is to be made, such motion to postpone should not come until after the amendments have been voted on. The adoption of certain amendments may make the bill agreeable to Senators who would otherwise vote for its postponement.

Mr. SUTHERLAND. I can foresee some difficulty there. If we agree that the amendments shall be voted on prior to 5 o'clock and then leave in the air the question of a motion to postpone I do not know where we are going to finally land, and I want that matter out of the way.

Mr. OVERMAN. We might agree to have a vote before the close——

Mr. SUTHERLAND. I do not care when it is done, so that it is before the time to vote upon the amendments shall expire. Else after voting upon the amendments we may be kept all of another day fussing with the motion to postpone.

Mr. CLARKE of Arkansas. What would be the objection to fixing 3 o'clock before we vote upon anything?

Mr. SUTHERLAND. Very well.

Mr. SHIVELY. The objection is the one which has just been stated. We are asked to vote on a motion to postpone before we vote on the amendments. Just the reverse is the order in which the motion to postpone should come before the Senate. If certain amendments are adopted, all Senators may be against postponement. Amendments should be exhausted before postponement is considered. Otherwise certain Senators may vote

for postponement because of what they regard as fatal defects in the bill, and which defects might have been cured by amendment.

The PRESIDING OFFICER. The agreement might be made that the motion to postpone shall precede immediately the question of the passage of the bill.

Mr. SWANSON. It seems to me the unanimous-consent agreement would include a vote before 5 o'clock, the amendments to be presented before 3, and also such motions as are admitted under the previous consent agreement. That would not alter the previous agreement at all—that at 5 o'clock we proceed to vote on all amendments and motions admitted under the previous agreement. It seems to me that would obviate all the objections presented.

Mr. SUTHERLAND. All I want is that when we enter into this unanimous-consent agreement there shall be no opportunity, after we have complied with these conditions, for further long discussion over the question of postponement. I suggest that we begin voting before 5 o'clock, and without further debate dispose of this bill. That is the point I want to make.

Mr. OVERMAN. And all motions and amendments.

Mr. SUTHERLAND. And all motions and amendments.

Mr. OVERMAN. There will be no argument if that is put in the agreement.

Mr. SUTHERLAND. If you reserve the right to make a motion to postpone, without any limitation as to when it shall be made, it may be made after all the amendments are adopted.

Mr. OVERMAN. It will have to be made before we begin to vote, because that is the time when we shall vote on the amendments and motions.

Mr. SUTHERLAND. If that is understood——

Mr. OVERMAN. As I understand, the question could be put before the time to vote.

Mr. POINDEXTER. Mr. President, I wish to make a suggestion as to the form in which the proposed unanimous-consent agreement has been stated. There will undoubtedly be a number of amendments. It is impossible to tell how long it will take the Senate to vote on all those amendments. So it is impossible to tell how long before 5 o'clock we would have to start in order to vote before 5 o'clock.

I think the form of the agreement ought to be as stated by the mover, that we begin to vote on these amendments not later than 5 o'clock and without interruption we vote upon all pending motions and amendments and the passage of the bill without further debate. If you put the form of the agreement as stated in the first place, it will be impossible to tell when the voting should begin in order to conclude it before 5 o'clock.

Mr. SUTHERLAND. The Senator's suggestion, then, is that we consent to include the previous condition that all debate shall end——

Mr. POINDEXTER. That is my suggestion; that the Senate at 5 o'clock shall proceed to vote upon all pending amendments and motions and on the bill itself.

Mr. SUTHERLAND. I think that would follow, but at the same time——

Mr. POINDEXTER. Then all Senators would know that no vote will be taken before 5 o'clock.

Mr. CLARKE of Arkansas. Not later than 5 o'clock.

Mr. POINDEXTER. Not later than 5 o'clock.

Mr. SHIVELY. Mr. President——

The PRESIDING OFFICER. One Senator at a time.

Mr. SHIVELY. Will the Senator not agree that the vote on the motion to postpone shall be taken immediately before the vote on the final passage of the bill?

Mr. SUTHERLAND. I have no objection to that after the time when all amendments are out of the way, provided it be understood——

Mr. SHIVELY. It is not a debatable question. There can be no delay.

Mr. SUTHERLAND. Then the unanimous-consent agreement will be, as I understand, that not later than 3 o'clock all amendments shall be submitted; that not later than 5 o'clock the Senate shall proceed, without further debate, to vote upon all pending amendments and the bill; and that the motion to postpone to a day certain shall be disposed of after the amendments shall have been disposed of.

Mr. SHIVELY. Just prior to the vote on the passage of the bill.

Mr. POINDEXTER. I should like to ask the Senator from Utah what would be the objection to including the motion to postpone to a day certain with all other motions and amendments to be voted on at 5 o'clock or not later than 5 o'clock?

Mr. SUTHERLAND. To begin to vote not later than 5 o'clock?

Mr. POINDEXTER. To begin to vote on those not previously disposed of.

Mr. BACON. The Senator from Utah, I hope, did not think a motion to postpone could be made after the passage of the bill.

Mr. SUTHERLAND. No; I had not much of that idea.

Mr. SMITH of Georgia. I have sought for some time to explain my objection to the proposed unanimous-consent agreement, but I have not been able to get the ear of the Senate. I have but one objection to it. I think we ought to have the right to continue to offer amendments, and not merely for delay.

Suppose the Senate should vote down the proposition to give the man the right to recover his full pay. I hope they will not. I would then want to make a trial on 75 per cent of his salary. I would want to test this down if necessary, and to get the very best we can—better, I hope, than the bill proposes. Not for delay, for I want to assure the Senator from Utah it has not been my purpose in this matter to delay further than this: I wanted the matter kept before the Senate long enough to catch to some extent the ear of the country. I did not hope we would have the hearing of the Senate of any debate, but I did hope the discussion of the subject might catch the ear of the country. I have never had any thought of undertaking to stop procedure arbitrarily, but I have believed it was fair to us and only just to this measure that it should go along slowly enough for a few days to let the country know we were considering it.

I am anxious to have a vote here on Monday. We do not seem to be able to attract attention and make any impression.

Mr. SUTHERLAND. Can not the Senator submit his amendments before 3 o'clock on Monday?

Mr. SMITH of Georgia. I hope I will not have many. It is only in the event that they are voted down that I will offer others, but I state frankly that it is not with any purpose of delay. We might agree to this: That after 5 o'clock there should be no more debate, and we should vote, and it is possible we might get through with it early Monday morning and then commence voting. I think we will get to voting on them by morning.

Mr. BACON. I think the almost universal practice in these unanimous-consent agreements is to provide that not later than a certain hour the Senate will begin to vote upon all amendments pending and to be offered. That is so general that I may almost say it is universal. I think that is the proper course.

Of course, as was explained by my colleague, sometimes the adoption of one amendment will require another, or the failure of one amendment makes it necessary to offer another amendment. It seems to me it is the simplest thing in the world to say not later than a fixed hour the Senate shall proceed to vote upon amendments offered and to be offered and the bill, including, as suggested by the Senator from Virginia, any motions which are permissible under the present agreement.

Mr. SUTHERLAND. Why would it not be better to fix the hour at 3 o'clock—to begin voting at 3 o'clock on all amendments.

Mr. SWANSON. It seems to me we have a unanimous-consent agreement, which we are all in honor bound to keep. The only question is when shall we proceed to execute the unanimous-consent agreement heretofore made. It seems to me that this unanimous-consent agreement covers every difficulty suggested by any Senator. It seems to me if we will agree that at 5 or 4 or 3 o'clock we will proceed to execute the unanimous-consent agreement heretofore made, it will cover the entire case and we would then execute the agreement made several days ago.

Mr. SUTHERLAND. That would seem to be so.

Mr. SWANSON. It seems to me if we agree that at 3 or 4 or 5 o'clock we will vote——

Mr. CULLOM. Without debate.

Mr. SWANSON. Without debate, we will execute the agreement heretofore entered into.

Mr. HITCHCOCK. I think there is this decided objection: If we name an hour certain to vote on the amendment, this Chamber will be practically empty until that hour comes.

Mr. SUTHERLAND. "Not later than." The amendments can be called up at any time.

Mr. HITCHCOCK. I think it should be agreed that a vote may be had on an amendment at any time, so as to guarantee the presence of Senators.

Mr. SUTHERLAND. That is the understanding.

Mr. HITCHCOCK. I have a suggestion which I have reduced to writing: That all debate shall cease not later than 4 o'clock Monday; that any amendment may be submitted to a vote at

any time; that after all amendments shall be disposed of, it shall be in order to make a motion to postpone to a day certain; and if it fails, the bill shall then be voted upon.

Mr. CLARKE of Arkansas. I will modify the request I made and ask that not later than 3 o'clock on Monday the Senate proceed to vote on the bill and all pending motions and amendments.

Mr. SUTHERLAND. Without further debate.

Mr. CLARKE of Arkansas. Of course, that means amendments offered or to be offered.

Mr. SUTHERLAND. And without further debate.

Mr. CLARKE of Arkansas. And without further debate.

Mr. HITCHCOCK. Does that preclude submitting amendments to a vote before 3 o'clock?

Mr. CLARKE of Arkansas. Oh, no. It says "not later than."

Mr. SMITH of Georgia. I am perfectly willing to accept the suggestion of the Senator from Nebraska, that after 4 o'clock there shall be no further debate and not later than 4 o'clock we shall proceed to vote.

Mr. CLARKE of Arkansas. There is very little difference between 3 and 4 o'clock; it is only an hour. If it is agreeable to the Senator from Utah we will make it 4 o'clock.

Mr. SUTHERLAND. Very well.

Mr. CLARKE of Arkansas. Then I remodify the motion by substituting 4 o'clock for the vote on the bill, and that we shall then proceed without further debate to vote on all amendments and on the motion to postpone.

Mr. HITCHCOCK. Whenever an amendment of that kind is in order to be voted upon.

Mr. CLARKE of Arkansas. Yes.

The PRESIDING OFFICER. Then the proposed unanimous-consent agreement, as the Chair understands it, is that on Monday next, not later than 4 o'clock p. m., the Senate will proceed, without further debate, to vote upon any amendment then pending or which may be offered to the said bill, and upon the bill itself, and further, that immediately prior to the time for taking the vote on the passage of the bill, if a motion then be made to postpone the further consideration thereof to a day certain, it shall be entertained.

Mr. SUTHERLAND. That such a motion shall be in order.

Mr. WARREN. Unless there has been some arrangement as to the hour of meeting, it would leave the hour of meeting at 2 o'clock.

The PRESIDING OFFICER. That can be arranged later. Is there objection to the request?

Mr. SMITH of Georgia. I understand the hour of meeting will be 12 o'clock.

Mr. SUTHERLAND. We will take a recess until 11.50.

Mr. SMITH of Georgia. Eleven fifty.

Mr. REED. Mr. President, I want to say this: My own judgment is that this agreement ought not to be made; that this bill ought to be fought out, and these amendments ought to be discussed. There are vices in this bill that have not yet been exposed and will not be in the short time allotted. But I do not intend to stand here against the judgment of other men interested as I am in the amendment of this bill, and I am not going to make the objection which would bar a unanimous-consent agreement. But I am yielding with reluctance and express the opinion that we are making a mistake. However, I will not take the responsibility of standing out against all my colleagues.

The PRESIDING OFFICER. Is there objection to the request made by the Senator from Arkansas? The Chair hears none, and it is so ordered. What is the pleasure of the Senate?

Mr. SUTHERLAND. Unless somebody else desires to be heard this afternoon, I will move that the Senate stand in recess until the calendar day of Monday at 11.50 a. m.

Mr. SMITH of Georgia rose.

Mr. SUTHERLAND. If the Senator from Georgia desires to proceed, I, of course, will not make the motion.

Mr. SMITH of Georgia. I think I had better go on with my amendments. We may be able to vote on some of them this afternoon.

Mr. SUTHERLAND. Very well.

Mr. SMITH of Georgia. We are cutting off our time and there will be but a short time for debate.

Mr. SUTHERLAND. Very well.

Mr. SMITH of Georgia. Mr. President, the time will be so short on Monday that I think it essential this afternoon that the nature of the amendments I intend to offer should be discussed. We have not any real hope of discussing them before the Senators, but we can discuss them and put them in the RECORD and carry them at least to the fight we will make in the House, if the Senate passes the bill without placing on it the amendments. Let the parties interested know what the Senate has done and what the House has a chance to do, and if we have a little delay we feel sure it will not be long before the Member of the House or the Senator who votes for this measure and against these amendments will not be able to defend himself before the pile of telegrams and letters from railroad men condemning his conduct.

I want the men interested to understand how we wish to improve this bill if it will pass it.

The first amendment which I have suggested is to strike out section 3. Section 3 makes this bill the exclusive remedy of railroad men. I want that stricken out.

Of course, later on we would have to amend the title, but under the practice of the Senate the title can not be amended until the bill is passed.

Mr. POINDEXTER. I should like to call the Senator's attention to section 30, which deals with the same matter.

Mr. SMITH of Georgia. I shall be glad to send the Senator a copy of all my printed amendments.

Mr. POINDEXTER. Just on that particular point, in order to accomplish the object the Senator has in view, there should be stricken out the words "happening before this act shall take effect."

Mr. SMITH of Georgia. Or else to insert, after the word "before," the words "or after."

My next amendment is to amend section 30 so as to insert, after the word "before," the words "or after," so that section 30 will read as follows:

That nothing herein contained shall be construed as doing away with or affecting any common law or statutory right of action or remedy for personal injury or death happening before or after this act shall take effect.

Now, Senators, our first suggestion is to give the Senate a chance to save these men their present rights, and we, or most of us, are willing to go on record on that subject. We know they ought to be saved, and we feel that there are a number of Senators on the other side who ought to vote with us on it, having the same views about human rights and human beings that we have, who really have the idea, new fashioned as it may be, that life and limbs are almost as precious as dollars and cents, and that even the Senate of the United States might afford to put the limbs and the life of a man who works on a railroad on a plane just as high as it puts the freight of a shipper. There is not any scaling of the value of the freight. If it is lost, the shipper gets paid. If the negligence of the railroad or the lack of negligence of the railroad loses the freight of the shipper, the railroad pays full price for it.

I have an unreasonable notion that if, from the negligence of a railroad, an engineer is killed his wife and children might be allowed a claim against that railroad for the fair financial value of the life of that engineer, and it is not extreme to think that a human life might be treated in compensating the widow and the little children somewhat in the same way that you would treat the freight of a great shipper that is lost in transportation. You would pay the shipper the full value, and yet the Senate is asked to treat the widow and the children to about 20 per cent of the value of the life of an engineer.

Mr. REED. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Missouri?

Mr. SMITH of Georgia. Certainly.

Mr. REED. Can not the Senator from Georgia see that there is a distinction naturally appealing to the latter-day business man between the property that a man has in his hand that is negligently cut off and the property that a shipper has in a load of hogs—that they are upon an entirely different plane and that the hogs ought to have the advantage in this day and year of grace?

Mr. SMITH of Georgia. I was actually advancing the astonishing proposition in the presence of this body that I am so unreasonable as to feel that the widow and children ought to have recognition, and that the wife of the engineer might be treated——

Mr. REED. Lest I might be misunderstood, let me say that I am equally unreasonable.

Mr. SMITH of Georgia. I understood the Senator from Missouri, and I want to tell Senators that it is going to be recognized in the same way. I want to tell Senators that you can put a limitation on now, but you can not keep it there. You can say that $4,000 paid monthly at $50 a month is all the widow and half a dozen children can have for the life of an engineer whose expectancy according to the table has a present value of $35,000, but you can not keep it there. I am here to protest that we do not start it so.

Now, if you are simply dealing with the engineer who is exclusively at fault, whose negligence was the sole cause of the catastrophe—if you are seeking in a wise public policy to give

something then, your figures fixed would be reasonable. If you would pass a bill without destroying the present rights of the employees, your figures intended for the man whose negligence was the sole cause of the catastrophe might be considered reasonable, but you can not sustain that estimate of compensation in the other cases.

Therefore, we urge the Senate to do as the English law does. When they adopted their workmen's compensation act they made it cumulative. They left the employee with all his common-law rights; they left him with all his statutory rights under the employers' liability act; and they added the workmen's compensation act. You strike down the employers' liability act just at the moment when you know it has become effective, or at least you propose to do it by this bill.

Now, next——

Mr. SIMMONS. What has the Senator to say about the constitutionality of the proposition, anyhow?

Mr. SMITH of Georgia. I have stated, Mr. President, in the opening of my remarks that there are a number of grave constitutional questions that can be raised as to the validity of this bill. I stated that I did not intend to discuss them; that I only presented to the Senate the fact that they were raised by lawyers and briefs were filed before the commission pointing out unconstitutional provisions and attacking the constitutionality of this bill generally. Instead of stopping to discuss the constitutional questions in detail, I only desired to present the question as to its constitutionality as a reason why, if we pass the bill, we ought not to repeal the existing rights and leave the employee without his present remedies while we are embarking in a sea of constitutional doubt.

I criticized the provision of the bill which takes from the employee the right to be compensated in damages for the expenses of his injury. His right to employ his own physician and collect reasonable fees charged him by his own physician is taken away by this bill. He can not have a physician paid for by the road unless it is the road's own physician.

He can now employ a physician; he can have his family physician; he can employ his own surgeon, and he can recover the cost of that physician provided the charges are reasonable. You take that from him, and you prescribe under this bill the very thing that the railroads have always wanted.

Oh, how tender this bill is toward all their defenses. You prescribe that not a dollar of compensation is to be paid except where the railroad's own physician does the work. I propose to amend the bill by providing:

That if the employee elects to furnish his own physician or surgeon to care for himself, he may recover from his employer such expenses incurred therefor by him as are reasonable and just.

Next, amend, after line 16, on page 4, section 7, by adding:

Provided, That where it is made to appear that the employer, through its officers and agents, had received knowledge of the accident within 30 days after the happening thereof, no notice whatever shall be required to be given of the action by the employee to the employer.

Why penalize the employee for not giving notice when the employer already has notice? I will tell you why. It is the cunning device—I will not say that, because I do not know who devised it, but it is the adroit defense furnished to the railroad lawyer by requiring the employee to furnish a statement of his case right away, to give all his notions of his case right away to the railroad company. It is to commit the employee to a statement of his case at once, and to hold it as his admission to break him down if need be. My amendment provides that if the employer through his officers or agents knows about the accident within 30 days the employee need not notify him of what he already knows.

Amend section 7 by adding the following:

It shall be the duty of the employer, with five days after receiving notice through its officers or agents that an employee has received an injury in its service, to notify such employee whether said injury was received while such employee was employed in such commerce by such employer; and in any legal procedure which may follow the employer shall be bound by such notice, and will not be permitted to deny its truth, and on failure of said employer to give said notice said employer shall not be permitted to deny, in any legal procedure, the claim that said injury was received by such employee while employed in such commerce.

It just occurred to me that while you are taking care everywhere of the interest of the employer you might do something for the employee, too.

Amend by striking out section 10 and by striking out section 11.

Section 10, that I ask to strike out, is as follows:

SEC. 10. That before any agreement or award has been made or after the making of any such agreement or award, and at any time before the expiration of two years from the date of the accident, it shall be the duty of the injured employee, if so requested by the employer, to submit himself one or more times, at reasonable times and places, for examination—

One or more, just as many as they want. The injured employee must trot up to the claim agent whenever he wants him—

for examination by a duly qualified physician or physicians furnished and paid by the employer.

Of course they would be paid for by the employer. They are its men. They are being used to prepare its testimony. It is real kind that the railroad company will pay for them and that it does not try to make the employee, who has not anything, pay for the examining surgeons who are to testify against him.

The section continues:

It shall also be the duty of such employee in like manner to submit himself to one or more such examinations whenever his original claim for compensation or the matter of the review of compensation is pending before an adjuster or the court. The employee shall have the right to have a duly qualified physician or physicians, provided and paid for by himself, present at any such examination.

Now, that is kind. It is real kind to say to an employee who is a freeman that he can take his own physician along with him, provided he pays the bill, when the railroad's physician examines him. How could you keep him from doing it? That is indeed generous.

The section continues:

If the employee refuses to submit himself to any such examination or in any way obstructs the same, his right to payments or compensation and his right to take or prosecute any proceeding under this act shall be suspended until he shall have submitted himself for such examination, and no compensation shall at any time be payable in respect to the period of such suspension. Upon request a copy of the report of the employer's physician or physicians of such examination shall be furnished to the employee, and a copy of the report of the employee's physician or physicians, if any, shall be furnished to the employer, within six days after any such examination. The employer shall have the right, in any case of death, to require an autopsy at his expense.

The original plan of this bill was to allow the claim agent representing the employer to take up and cut up the dead body of an employee to make an autopsy whenever he got ready. I am glad the Senator from Utah modified that provision, although Mr. Wills said it was dangerous to change the bill in any way.

Now, I move to strike out that section. I also move to strike out the next section, which is section 11. Section 11 is the one which allows the railroad to bring the injured employee before the adjuster from time to time. It is under section 11 that litigation does not terminate and that innumerable hearings can be placed upon the employee, if the claim agents want to do it.

I suggest as an amendment to amend section 13, paragraph 4, by adding at the close of the same:

Provided, That either party may take the testimony to be used before the adjuster, of a witness, either by deposition or interrogatories, according to the rules of practice of force in the United States district in which the case is pending.

I say this bill is drawn without any provision which allows testimony to be taken. If it is there, I have not been able to find it. Of course the railroads do not need it. They do not take their testimony that way. They bring witnesses from all over the country. But the employee does need it.

Mr. President, I will send up to the Secretary this amendment to section 13, and I think I will perhaps offer it now. It is a good one to break the ice on. On page 3, line 3 to line 8, I offer that amendment now.

Mr. SUTHERLAND. Let the amendment be read.

The PRESIDING OFFICER. The Senator from Georgia offers the following amendment.

The SECRETARY. Amend section 13, paragraph 4, by adding at the close of the same the following words:

Provided, That either party may take the testimony to be used before the adjuster of a witness, either by deposition or interrogatories, according to the rules of practice of force in the United States district in which the case is pending.

Mr. SMITH of Georgia. On that I call for the yeas and nays.

Mr. SUTHERLAND. Mr. President, I desire to be heard for just a moment.

In preparing the bill, the view of the commission was that the general law of the United States with reference to taking depositions would apply to taking depositions before this adjuster, for the reason that the adjuster is, in substance and effect, an arm of the court, the same as a United States commissioner is an arm of the court, and the Supreme Court has held that it has control over the United States commissioner, and wherever he is lacking in power to do any particular thing the court itself may direct it. Therefore our thought was that it would follow that in a proper case depositions might be taken under the general law.

But this simply makes definite and certain what we believed was included in the law without it, and I shall not object to it.

Mr. SMITH of Georgia. I did not catch the Senator's reason for thinking that he had provided for it already.

Mr. SUTHERLAND. The reason, with reference to all matters of this kind, was that the adjuster would be, in effect, an arm of the court, just as the United States commissioner is an arm of the court. It has been held, with reference to United States commissioners, that the commissioner was all the time under the direction and control of the court, and that where the law was lacking in definite directions to him the court could supply that the same as it could, under the general law, do the thing itself. That was, in substance, the holding, but as I have said——

Mr. SMITH of Georgia. Have you not in this bill specifically directed the way in which this man is to take the testimony and where he should go?

Mr. SUTHERLAND. That is quite true.

Mr. SMITH of Georgia. Having expressed a portion of his authority in that regard, have you not excluded the balance?

Mr. SUTHERLAND. No more than in the case of the United States commissioner. The Senator will find the case in 155 United States Reports, page 595, which holds substantially as I have stated. But I see no objection to the amendment, and as far I am able to do so, I accept it.

Mr. REED. The trouble with the Senator's argument is that a United States commissioner exists under general law as a branch of the Federal court. This is an exclusive bill and stands by except where it incorporates the provisions of the law otherwise.

I suggest to the Senator, in addition to this amendment, the further statement that "evidence taken before a commissioner may be preserved in writing and may be read upon the trial with the force and effect and under the same circumstances that a deposition would be admissible."

Mr. ROOT and others. Question!

Mr. SMITH of Georgia. I call for the yeas and nays.

Mr. REED. I wanted to know whether the Senator from Utah would accept that amendment. Otherwise I shall write it out.

Mr. SUTHERLAND. I beg the Senator's pardon. I did not know he was addressing me.

Mr. REED. Directly.

Mr. SUTHERLAND. I will be glad if the Senator will restate his suggestion.

Mr. REED. I suggest that the bill ought to be further amended by providing that "evidence taken before a commissioner may be preserved in writing upon the trial of the case before the court and can be there read under the same circumstances and with the same force and effect as a deposition."

Mr. SUTHERLAND. I see no objection to that.

Mr. REED. I should like to have that language added.

The PRESIDING OFFICER. Will the Senator from Missouri kindly submit his amendment in writing?

Mr. REED. I will do so.

Mr. SHIVELY. I understood the Senator from Utah to say that he would accept the amendment suggested by the Senator from Georgia. So there is no occasion for calling for the yeas and nays.

Mr. SMITH of Georgia. I will simply offer that amendment and have it ready, without any further discussion on it, to vote upon Monday afternoon. As there will be no contest over it, it may then be submitted as one of the amendments.

Mr. SUTHERLAND. It may as well be disposed of.

Mr. SMITH of Georgia. If we dispose of it now we have to raise the point of bringing Senators here to vote.

Mr. SUTHERLAND. That point need not be made unless the Senator desires to do it.

The PRESIDING OFFICER. Does the Senator from Georgia desire a vote on the proposed amendment now?

Mr. SMITH of Georgia. No; I do not insist on it now.

Mr. SHIVELY. I understand the amendment has been accepted, and it is a mere matter of reducing it to writing.

The PRESIDING OFFICER. The Chair will suggest that one Senator can not accept an amendment submitted by another Senator. It is for the Senate to do that.

Mr. SUTHERLAND. I did not so state. I simply said that, so far as I was able to do so, I would accept it.

Mr. SHIVELY. In the absence of objection, that is always a proper course.

The PRESIDING OFFICER. It is merely a question whether the Senator from Georgia desires the amendment to be voted on now or whether he withdraws it for the present.

Mr. SMITH of Georgia. I do not insist on voting upon it now, there being no question about it.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Georgia. [Putting the question.] The ayes appear to have it. The ayes have it.

Mr. REED. Does that include the further language——

Mr. SMITH of Georgia. The Chair misunderstood me. I said I did not insist on a vote now.

The PRESIDING OFFICER. The Chair apologizes. The Senator from Georgia then withdraws his amendment for the present.

Mr. SMITH of Georgia. Yes, I will withdraw it; because the Senator from Missouri has a still further suggestion of some language with reference to it, and I think it quite important that it should be perfected. In the multitude of amendments that I felt called upon myself to suggest to this bill, which I think ought to be amended far beyond the suggestions I have made, I really did not have the time to complete them with that accuracy I would have liked.

I think the amendment to strike out section 11 is an amendment we might well take up now. I offer that. My proposition is to strike out section 11 from the bill. I move to strike it out.

The PRESIDING OFFICER. The Senator from Georgia moves the following amendment.

Mr. ROOT. Let it be read, Mr. President.

The SECRETARY. On page 11 strike out all of section 11.

Mr. SMITH of Georgia. Mr. President, I think it important to call the attention of the Senate to what that section does. That is the section which makes it practicable for the railroad company to bring the injured man after his case has been heard——

Mr. CRAWFORD. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from South Dakota?

Mr. SMITH of Georgia. Certainly.

Mr. CRAWFORD. It seems to me that the Senator had an amendment pending here, and it was practically accepted and yet no action was taken upon it. Now, we are not making much progress if we get so near together as that and then let the matter go over.

Mr. SMITH of Georgia. Did not the Senator understand the Chair? The Senator from Missouri [Mr. REED] had a suggestion of some change.

Mr. CRAWFORD. That was accepted.

Mr. SMITH of Georgia. I did not so understand it.

Mr. CRAWFORD. It was accepted, and it seems to me that ought to be settled before we take up another amendment.

Mr. SMITH of Georgia. I did not understand that it had been agreed to.

The PRESIDING OFFICER. The Senator from Georgia withdrew the amendment, which was his entire right.

Mr. SMITH of Georgia. I did it because I understood it had not been perfected. If it has been perfected, I am perfectly willing to press that amendment to a vote.

Mr. CRAWFORD. The reason why I rose is because I think we would have a clear record and would know better where we are if an amendment on which we were practically agreed was settled in the record before we went to another.

Mr. SMITH of Georgia. I think if the Senator had heard all that took place he would have understood that the Senator from Missouri suggested an amendment, and there was some criticism upon it.

Mr. CRAWFORD. I understood that that was accepted.

Mr. SMITH of Georgia. I then suggested that it be perfected as practically agreed on.

Mr. CRAWFORD. I did not hear that.

Mr. SMITH of Georgia. I said we were not ready then to vote on it, as it had not been reduced to writing, but we could pass upon it without further discussion on Monday. But if the Senator from Missouri has it ready, we might vote on it now.

Mr. REED. I suggest to the Senator from Utah this language, which I have now reduced to writing:

Evidence produced before the adjuster may be taken in writing or in shorthand and may thereafter be read in evidence on the trial of said cause before the adjuster or the court under the same circumstances and with the same force and effect as a deposition.

Mr. SMITH of Georgia. That is an addition?

Mr. REED. That is an amendment to your amendment. I add it at the end of your amendment.

Mr. SUTHERLAND. Let the amendment to the amendment be read.

Mr. SMITH of Georgia. I will offer again the amendment I had, because I see that what the Senator from Missouri has is not a modification of my amendment, but an addition to it.

The PRESIDING OFFICER. The amendment and the amendment to the amendment will be stated.

The SECRETARY. The Senator from Georgia moves to amend section 13, paragraph 4, found on page 16 of the bill, by adding at the close of the paragraph the following proviso:

Provided, That either party may take the testimony, to be used before the adjuster, of a witness, either by deposition or interrogatories,

according to the rules of practice of force in the United States district in which the case is pending.

The Senator from Missouri proposes to add, after the word "pending" in the proposed amendment, the following words:

Evidence produced before the adjuster may be taken in writing or in shorthand, and may thereafter be read in evidence on the trial of said cause before the adjuster or the court under the same circumstances and with the same force and effect as a deposition.

Mr. SUTHERLAND. Mr. President, that was hardly as I understood the proposition which the Senator from Missouri made. I would have no objection if the amendment is so worded that the transcript of the shorthand notes of the reporter are properly authenticated. There ought to be a provision of that sort.

Mr. ROOT. "When properly authenticated."

Mr. SUTHERLAND. Yes; "when properly authenticated."

Mr. REED. Authenticated by the adjuster or by the reporter?

Mr. SUTHERLAND. It should be authenticated by the reporter.

Mr. REED. I think that is right.

Mr. SUTHERLAND. I think the phrase "when properly authenticated" will cover it.

Mr. SMITH of Georgia. I should like to suggest to the Senator from Missouri that he keep that amendment until Monday morning and study it out a little before we finally determine what we shall put in.

Mr. REED. Very well. Then I will withdraw it temporarily.

The PRESIDING OFFICER. The question, then, is on agreeing to the amendment offered by the Senator from Georgia.

The amendment was agreed to.

Mr. SMITH of Georgia. Now I offer an amendment to strike out section 11.

The PRESIDING OFFICER. The Senator from Georgia proposes an amendment, which will be stated.

The SECRETARY. It is proposed to strike out section 11 of the bill.

Mr. SUTHERLAND. Mr. President, if that amendment were agreed to, it would take out of the bill what I regard as one of the very important provisions of it and one of the very important provisions for the protection of the employees. The Senator from Georgia, all the way through his discussion, not only of this section but of others, has referred to it as though it were a provision which the railroad companies alone could make any application of. Now, let me read the essential part of that provision:

At any time before the expiration of two years from the date of the accident, but not afterwards, and before the expiration of the period for which payment of compensation has been fixed thereby, but not afterwards, any agreement, award, findings, or judgment may be from time to time reviewed by the adjuster upon the application of either party after due notice to the other party upon the ground that the incapacity of the injured employee has subsequently ended, increased, or diminished. Upon such review the adjuster may increase, diminish, or discontinue the compensation from the date of the application for review, in accordance with the facts, or make such other order as the justice of the case may require, but such order shall have no retroactive effect.

Mr. President, the whole theory of the compensation law is to compensate the injured employee for disability. The disability may be any one of four classes: It may be a permanent total disability, in which case the compensation continues for life; it may be a temporary total disability, in which case the compensation continues so long as the disability continues; it may be a partial permanent disability, in which case the compensation continues for a certain definite length of time—in one case for 72 months, and in case of a slight injury, like the loss of a finger, for a few months, and so on; then, the fourth class is where the injury is of a temporary partial character, in which case the compensation continues under this bill so long as the man is not able to obtain work.

Take a case where a man has received what is denominated a temporary total disability. Upon investigation of that case it may be determined from the evidence of the medical examiners that he has such an injury as will continue for six months, and the adjuster fixes the compensation accordingly; he directs that the compensation at the rate of $50 a month shall be paid to that man for the period of six months; but before the six months expire it is discovered that, instead of that being a temporary total injury, it is a permanent total injury; that the diagnosis is erroneous; then this man should have the right—and the right is preserved to him under this bill—of going before the adjuster and showing that in the meantime his injury has increased in character; so that, instead of being a temporary total injury it is a permanent total injury; then, this compension will continue for life. Again at the end of six months it may be found that he has not recovered. His disability is still regarded as a temporary total disability; but it is lasting longer than was at first anticipated; instead of lasting six months, it bids fair to last a year; so he goes before the adjuster and the adjuster directs that the compensation shall continue to that man for another year; and so on. That is an illustration of the application of the law for the benefit of the employee.

On the other hand, the adjuster finds that the employee has been temporarily totally injured, and within a week he discovers that the man was not injured or that the man has recovered in spite of the predictions of the doctors and has gone to work somewhere at full wages, and it is discovered beyond question that he is not injured; then the railroad company should have a right to protect itself. It is for the mutual protection of both, and I do not know of any compensation law that does not include some such provision as this.

Now, we have limited the time in which a review may be had to two years. Some of the laws permit it to be made at any time, even beyond the period of two years; but we have limited it to two years, for the reason that we believed from an investigation we made of the subject that the character of practically every injury will have been determined within two years; that even if it is to be a total permanent injury, two years will disclose that fact, and the cases where it will not be disclosed may be regarded as negligible. Therefore, after the expiration of two years application for review, either on the part of the railroad company or on the part of the injured employee, in the vast majority of cases, in practically all cases, might be regarded as vexatious; and so we limit the time within the two years; but within the two years, in order that no injustice may be done, we permit these applications to be made.

Mr. ROOT. Mr. President, if we are to have a vote on this amendment, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from New York suggests the absence of a quorum. The roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Cullom	McLean	Richardson
Bacon	Cummins	Martine, N. J.	Root
Bourne	Curtis	Myers	Shively
Bristow	Davis	Nelson	Simmons
Bryan	Fall	Newlands	Smith, Ga.
Burnham	Fletcher	Oliver	Stephenson
Chamberlain	Gallinger	Overman	Sutherland
Chilton	Gronna	Page	Thornton
Clapp	Johnson, Me.	Perkins	Warren
Clark, Wyo.	Kern	Poindexter	Wetmore
Crane	Lea	Pomerene	Williams
Crawford	Lodge	Reed	

Mr. ASHURST. I should like to be permitted to state that my colleague [Mr. SMITH of Arizona] is absent from the Chamber on important matters connected with his duty as a Senator.

Mr. BACON. Mr. President, I ask that the number of Senators present may be announced.

The PRESIDING OFFICER. Forty-seven Senators have answered to their names; not a quorum.

Mr. BACON. Well, Mr. President, in view of the fact that the time has been fixed for a vote on the pending bill, a limitation within which this matter is to be concluded, I hope the Senate will stay in session and send for absent Senators and require them to be here.

Mr. SUTHERLAND. I ask that the absentees be called.

Mr. BACON. There is certainly no propriety in fixing a time for a vote and then for Senators to absent themselves and prevent a proper consideration of a measure. I hope the Senate will not permit it.

The PRESIDING OFFICER. The names of the absentees will be called.

The Secretary called the names of the absent Senators.

Mr. SANDERS, Mr. JONES, and Mr. WORKS entered the Chamber and answered to their names.

The PRESIDING OFFICER. Fifty Senators have answered to their names. A quorum of the Senate is present.

Mr. CRAWFORD. Mr. President, I desire to say a few words with reference to this amendment. I confess that in some respects this bill does not suit me. It is a pioneer measure, and undoubtedly will have to be amended from time to time if it becomes a law, and in some of the contentions of the Senator from Georgia [Mr. SMITH] I recognize a great deal of force, but I want to say to the Senator that, to my mind, he is not helping this bill nor helping the men whom I know he wants to help in his proposal to strike out this section. I believe this section is one of the most important sections of the bill from the standpoint of the railway employees.

The Senator from Georgia has had very large experience, I understand, with cases of railway employees and with the wide range of injuries that are sustained by them. Unless it be a case of the loss of a limb, it very often happens that it is impossible to tell within the first few days after the injury how slight or how serious that injury may be. Take the case

of a shock. Very often these injuries are attendant upon shock resulting from head-on collisions, or the ditching of a train, or the jumping from a train, or the receipt of a wound that in sympathetic effect may destroy the hearing or may destroy the sight. It may be a gradual loss of sight. You may not be able to say within the first 30 days that the sight has been seriously injured. It may be a symptom appearing within the first 30 days which gradually develops and finally ends in total blindness. It is the same way with the hearing and the same way with nervous shocks. As the Senator from Georgia in his experience understands full well, in cases of neurasthenia, injuries to the spine, and progressive paralysis, resulting from shock, you can not tell whether the disability is going to disappear in 30 days or whether after 3 or 4 months; it is simply developing and may end in death. The amendment of the Senator proposes to cut off all opportunity for the employee to go before the adjuster after it is discovered that a mistake has been made and that the injury is much more serious than it was thought to be at the first examination. To shut off absolutely any right on his part to ask that his case may be again examined, I think, if the Senator from Georgia will permit me to say it, would be a most serious mistake and a most serious crippling of the bill from the standpoint of the employee.

If the Senator will permit me, I remember that only a few months ago there came before the Committee on Claims of the Senate the case of a locomotive engineer on the Isthmus of Panama, in charge of an engine used with a steam shovel. There was a 3 per cent grade, and on a wet day imperceptibly his train had moved slightly until his cab came too close to the steam shovel, and in its movement back and forth as the train slid within reach, the arm of the shovel struck the cab and a sliver in some way flew and struck him near one of his eyes. Gradually—it did not appear for some time, but gradually—the injury developed and grew until he lost the sight of his right eye. They carried him along in a secondary position, working on a switch, until it finally developed that the sight of the other eye was weakened, and that he was very likely to become totally blind. He was sent back to the United States, and, while making some settlement with an accident insurance company in Cleveland Ohio, he became so despondent over the prospect of losing his sight entirely that he committed suicide. The employers had no idea during the first 30 days or so after he had received this injury that that man was going to become totally blind; he did not expect to become totally blind. Suppose the matter had been adjusted and settled within the first 30 days after the injury, how much damages would he have received? Would the Senator prevent him three months afterwards from making application to have a rehearing, in view of the fact that his injuries as they developed proved to be far more serious than he had himself expected?

Mr. WILLIAMS. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Mississippi?

Mr. CRAWFORD. I do.

Mr. WILLIAMS. I ask the Senator to yield merely to suggest a class of cases that occur much more frequently than that.

Mr. CRAWFORD. I was myself going to give another instance or two.

Mr. WILLIAMS. Injuries growing out of hurts upon the head which very frequently at first and for quite a while are considered merely temporary and quite insignificant, will afterwards develop into epilepsy, partial paralysis, and sometimes into insanity.

Mr. CRAWFORD. True enough.

Mr. WILLIAMS. And undoubtedly when it is ascertained that what was at first thought to be a mere temporary, insignificant hurt was really a permanent one, crippling the man both in body and in mind—frequently in one and sometimes in both—he ought to have a chance to obtain an increase in the amount allowed him as compensation, when it is considered that the compensation is for the real injury inflicted and not merely for the apparent injury at any particular time.

Mr. CRAWFORD. That is true.

I call the attention of the Senator from Georgia to another case occurring here in Washington. It is a pathetic case of a young man, with a wife and children, who while walking in the basement of the Bureau of Printing and Engraving, going around to his elevator early in the morning and in a rather dark passage, happened to step into a low place in the floor and fall. Ordinarily, you would have said that the mere tripping and falling on the floor in the basement corridor would not have amounted to anything; would not have been worthy of passing notice; would not have called even for a shin plaster, and yet some wrench occurred—just how or in what way is not known—and to-day this young man's trouble has developed until he has absolutely lost the use of his lower extremities and has to be wheeled in a carriage. Ganglia have gathered in bunches up and down his spinal column; running sores have broken out, and the whole history of the case shows no other cause for it; no hereditary trouble, no personal dissipation, no other cause for it except some injury received in that apparently slight accident.

Another case I remember very well in my own experience was that of a lady who was thrown by a collison simply a few feet from an ordinary seat in a day coach to the floor of the car; but afterwards when the case was being tried and she came into court and physicians examined her it developed that neurasthenic trouble had set in and it was merely a question of time when her life would have to pay the penalty.

A disease resulting from an injury like that develops often very slowly; during the first three months of its history it is a question whether the patient is not recovering; and yet the development goes on until finally it ends in death. Now, after an injured employee has gone before an adjuster in the early history of his case and had it investigated and had compensation fixed upon the basis of a slight injury, and after the facts are developed it appears to be a most serious and permanent injury, would the Senator bar such an employee absolutely from having the case reexamined? I think to do so would be a very serious mistake.

Mr. SMITH of Georgia. I would add to the history of cases of the kind to which the Senator refers one which just recently happened in Atlanta. About six months ago a professor of music in our public schools was thrown from a street car and he hit his head. In a day or two he was up again and thought he was all right. The claim agent went around to see him and made him an offer of a couple hundred dollars, which he accepted. Within two months his trouble in his head became acute, and he quit for a rest. Within two months later he was sent to the insane asylum of the State, and since then he has there died from his injury. So the line of cases to which the Senator refers are within the observation of all of us.

I condemn the whole plan of this bill. I condemn the two-weeks system. The German plan compensates the employee for three months before he receives any compensation under the workmen's compensation act. My own view of an intelligent and sound system is one which shall provide a plan not arbitrarily denying payments for two weeks, but a comprehensive and well-prepared workmen's compensation scheme that arbitrarily takes care of an employee if he is hurt under some system of official examination for a few months before he is forced to go before an adjuster at all.

My criticism of this section is not made in the sense of the suggestion of either Senator. I grant you that no employee should be put in a position where his rights are finally concluded a few days after the hurt. If we are to have a sound plan in the interest of the employees, we will cover the first three months, and then the litigation will start. I object to the unlimited right of reexamination contained in this bill. If there were a provision that covered the expense of the employee, I would not object, but to this very limited compensation that he is to receive, and with the unlimited right of the claim agent to ask him before the adjuster from time to time for two years I do object. It is possible that the section might be amended so as to relieve it of the arbitrary treatment of the employee.

But this section does not simply give the employee once, later on, after he finds out what is the matter with him, the right to go before the adjuster and receive the treatment that you suggested he might have. It gives the claim agent or the railroad company the right to take him from time to time before the adjuster. There is no necessity for that. If it is deemed necessary to provide under the system of the bill that the compensation shall be fixed, except in cases of unmistakable permanent injuries, to last 18 months or a limited number of months, and that at the close of that period or at a period fixed, covering the length of time that may be thought necessary, the adjuster should bring the party before him again and physicians appointed by the court or at the instance of either side, once, and that at the end of a certain term of months the party should again appear before the adjuster to see whether time has wrought a change, I would not object. What I object to is the provision in the bill which subjects the employee to a trial before the trial judge without a jury, and then to a trial in the district court before a jury, a trial de novo, with the expense falling on him, with no provision that the expense shall be paid by the railroad company, and then just as often as the claim agent desires to do it, this section allows the employee to be brought time after time before the adjuster for examination

and reexamined and reexamined—physicians' bills, physicians' bills, physicians' bills, to testify. That is the burden I am criticizing.

I think the Senator from South Dakota might perfect amendments to this section that would carry the beneficial effects that he suggests and rid it of all the burdens that it throws so heavily on the employee.

The difference between the two is this: The railroad company can afford to lavish its funds upon litigation if it deters claims, and it is an economical proposition that brings a saving to it, but the employee is not fitted to bear the burden of the fight, and it is the limitless burden that can be placed on him under this section against which I protest. I have worked out no amendments to put it where it should properly stand.

Mr. CRAWFORD. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from South Dakota?

Mr. SMITH of Georgia. Certainly.

Mr. CRAWFORD. Does the Senator from Georgia think it would be fair not to have this privilege a reciprocal one?

Mr. SMITH of Georgia. I think it should be reciprocal.

Mr. CRAWFORD. Supposing the employee really was not injured so seriously as was contemplated, should not the reciprocal provision allow the same privilege to the company?

Mr. SMITH of Georgia. Yes; and I so stated.

Mr. CRAWFORD. Is it quite fair to assume that a statute, as fair on its face to the employee, which simply gives a reciprocal right to the same extent and no greater to the employer, is to be used as an engine to completely destroy this man by bringing him before the adjuster without cause? Does not the Senator think that that course of procedure would react on the railroad company and to its injury to a greater extent than that of the employee?

Mr. SMITH of Georgia. I answer the Senator, no; and if it did I answer the Senator that wise judgment is not used ordinarily by the railroad companies, or many of them, in treating their employees. It is improving.

Mr. KERN. I should like to inquire of the Senator if a proviso added to section 11, to the effect that not more than one application for review shall be made by either party within the period of one year, would not meet his objection?

Mr. SMITH of Georgia. That would vastly improve it. I do not think it ought to be allowed once every year. I think the first trial ought not to begin before a few months after the accident, and I think, then, when there is application for a rehearing from either side, or, better than that, I think that either side might properly have the right to petition the United States district court judge and, for cause, obtain from him an order authorizing a rehearing or reinvestigation before the adjuster. I have never suggested that it should not be reciprocal. I suggested that it should be reciprocal. But I pressed the fact that it was a burden on one when it was not on the other; that a number of investigations would be no burden on the railroad company. They have their regular physicians, employed usually by the year. In my section every road has its able surgeon, among the very ablest in this country, who is employed by the year, who treats their cases and testifies for them in court. Our best surgeons are retained as the surgeons of the railroads. It is very difficult to get an able surgeon to examine an employee and testify. He might treat him, but the surgeon who is not retained by the railroad companies to treat its cases does not enjoy going into court on behalf of the plaintiff. If this bill was so amended as to provide that the rehearing could be within the discretion of the United States district judge for cause shown, I would not object.

Mr. SUTHERLAND. The Senator from Georgia has several times referred to the German law with reference to the 13 weeks' period. They have altogether a different situation there than we have. In Germany there are a lot of these interrelated schemes for the benefit of employees. They have, for example, the sickness fund, out of which the first 13 weeks of any injury as well as a sickness is compensated for. That sickness fund is not contributed by the employer. It is contributed by the employees and the employer in the proportion of two-thirds by the employees and one-third by the employer, and the effect of it is to relieve the employer from making compensation, except to the extent of one-third, during the first 13 weeks. The employer does not begin to pay the full compensation for the accident until the expiration of 13 weeks. It is an altogether different situation from the one we have here.

Mr. SMITH of Georgia. I never suggested that it was the same situation.

Mr. SUTHERLAND. I do not think we could in a law of this kind provide for a sickness fund.

Mr. SMITH of Georgia. What I said was that the German system carried the compensation for a certain length of time. I was under the impression it was 3 months, but the Senator says 13 weeks.

Mr. SUTHERLAND. Thirteen weeks. That is three months.

Mr. SMITH of Georgia. I do insist that any perfect system ought to contemplate a plan by which the injured employee receives with certainty support for the first few weeks of his injury, whether it be by a system of insurance or national taxation. Under the national-taxation system we have the whole power of Congress. Taxes can be levied to provide the funds.

Mr. SUTHERLAND. It seems to me we can not deal with that subject in this legislation. There are a great many good reasons for making a waiting period. All laws provide for some waiting period. I will not stop to go into that now, but later on, if I have the opportunity, I will discuss the matter.

Mr. REED. Mr. President, I want to make an observation. I think there is much merit in the suggestions coming from both sides. I think the Senator from South Dakota [Mr. CRAWFORD] is right in the view that there may be cases where the gravity of the injury will not be fully developed at the date of the hearing and where justice to the employee will require a review.

I think, on the other hand, there is great force in the argument advanced by the Senator from Georgia that if you place in the hands of a railroad company the power to call for an unlimited number of examinations, you have given the company the enginery by which it can greatly harrass and trouble and perhaps destroy the employee in a contest between a man and a great aggregation of men organized, with its attorneys and its physicians and backed by its capital. All men who have studied the matter know that the thing that is most to be desired after all by the employee is a speedy trial and a final end of the controversy, and that it is the prolonged trial, the endless litigation, which results finally in defeating the benefits the law intends to confer.

I have not that worshipful respect or, I should say, adoration for the Federal judiciary possessed by some men. Neither do I belong to that class who denounce Federal judges in the aggregate and by the wholesale. In the last analysis the best place to have your rights guarded is in some court. The Federal court is not the tribunal to which I would like to see these matters go; but if they are to go to that court, I would rather trust the judge to see that oppressions are not worked or abuses practiced than to leave it to an adjuster or to the claim agent of the road.

I suggest there should be a provision in this bill, as outlined by the Senator from Georgia, that upon a showing of probable cause made to the United States district judge having jurisdiction of the matter he is authorized to order a review of the case. That would safeguard the rights of both parties, because the judge would not order a review unless there was some ground or reason for it, and on the other hand, he would order the review upon a showing of probable cause. It seems to me that meets both difficulties, and that it ought to be accepted without much question. I would be inclined to favor that rather than a proposition to strike out the entire clause.

Mr. SMITH of Georgia. I should prefer that to striking out the entire section. I simply did not have the time to perfect the section. I found it objectionable as it stood, so I sought to strike it out.

Mr. REED. I should like to ask the Senator from Utah, who is in charge of the bill, if he would object to adding after the word "diminished," in section 11, where it occurs in line 17, this language:

Provided, however, That before any such review is had the judge of the United States court shall find as a fact that there is probable cause for such review.

Mr. SUTHERLAND. Oh, Mr. President, that would result in having the United States judge practically examine the case in advance of the adjuster doing it and the judge determining whether there has been a change in the conditions. That is the business of the adjuster—it is his sole business.

Mr. REED. The Senator will pardon me. An application filed before the Federal judge, supported, for instance, by an affidavit on the part of the injured man that since the making of the award he had discovered a change in conditions, would be a very simple matter. On the other hand, an application by a railroad company, that since the making of the award they had discovered that the man was not injured at all or that his injuries were not of the character claimed, supported by an affidavit, would be a very simple matter. It would not be a trial. It would not amount to an investigation. It would merely place in the hands of the judge the power of protecting both parties, and it seems to me most reasonable.

Mr. SUTHERLAND. It seems to me the proposition the Senator from Missouri makes could have but one result—to

require the employee to hire a lawyer every time he made application to the Federal court for an examination of this kind.

Mr. REED. I do not understand that that would follow. Why would he have to hire a lawyer to file an application of that kind, when it is claimed that under the beneficent provision of this bill he can try his entire case without a lawyer?

Mr. SUTHERLAND. Before the adjuster; not in the court.

Mr. REED. And it is proposed to allow him, in this bill, to be heard in the Federal court without a lawyer, if I understand the bill.

Mr. SUTHERLAND. The Senator misunderstands it.

Mr. REED. You have provided practically that, because you have provided that he can not have a good lawyer, because he can not make a contract——

Mr. SUTHERLAND. He can get an honest lawyer.

Mr. REED. Patently, if the theory that was painted here by the Senator a few days ago in advocating this bill is to develop into an actuality. Lawyers will no longer hardly be necessary in these cases; the men are to be taken care of by their societies and organizations; and it is a strange thing, now, when we are simply asking that some limitation be placed upon the right to demand examination after an examination, that we are met by the claim that a simple application of that kind can not be made without employing a lawyer. Surely that is so simple a matter that even the class of lawyers who are going to get into the business under this bill will know enough to make that kind of an application. I think a man could do it himself. If the Federal courts are going to act as a sort of guardian of these men, which is the way they are pictured here, benevolently inclined guardians, it will not require very much effort for a poor fellow to make sufficient showing to get that sort of an order made if he has good cause to show.

I am not saying this to provoke discussion, but the section as now drawn is far from just. I submit further, is it not the safer plan to place some limitation upon the power of claim agents to demand repeated examinations? I know of no way to protect both parties better than by allowing the court to supervise the applications for review.

Now, mark you, you are proposing to change a judgment. You are proposing to alter and set aside a judgment by hearing, and perhaps a half a dozen hearings, before an adjuster, although that judgment may have been rendered in a United States court and confirmed upon appeal, and you are giving the adjuster the right to retry the case time after time. There ought to be a limit to that, and if you will vest the discretion in the judge, I am sure he will guard the interests of both sides, not giving unnecessary trials, and at the same time allowing the matter to be opened for review in case fraud has been worked or grievous wrong done.

The Senator will not accept it? Then, of course, we can vote upon this measure, and we will offer our proposition as an amendment.

Mr. DAVIS. If the Senator from Georgia has concluded, I move that the Senate take a recess until 11.50 o'clock Monday morning.

Mr. SMITH of Georgia. I hope not. We have limited time, and we want to go through with these amendments to-night.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Arkansas that the Senate take a recess until 11.50 o'clock Monday morning.

The motion was rejected.

Mr. SMITH of Georgia. Mr. President, so much has been said about Federal judges that I would not do justice to my own feelings if I did not say that so far as concerns the district in which I live we have a Federal judge whom I would trust with any question of law or question of fact or question of right as quickly as I would any man who lives; and if our own district alone was to be affected, and the whole question was to be decided without a jury, it could be left to him to pass upon the rights of parties, and under a law which would give him a fair latitude in fixing those rights we would know that every man who had any claim in the district would be dealt with fairly, equitably, and kindly. A higher type of lawyer or judge sits upon no bench anywhere in the world.

The PRESIDING OFFICER. The question is on agreeing to the amendment submitted by the Senator from Georgia to strike out section 11.

Mr. REED. I ask for the yeas and nays.

The yeas and nays were not ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was rejected.

Mr. SMITH of Georgia. Mr. President, we will renew on Monday our criticism of section 11 and present an amendment to it which I hope the Senate will adopt.

Now, after the word "require," in section 13, paragraph 9, line 11, I move to insert the words "The reasonable attorney's fees of the employee shall be taxed as cost against the defendant by the adjuster or by the court."

I want to discuss that for just a moment. I can not think that such a provision would be dangerous.

In support of that amendment, discussing it generally now, but not pressing it for an immediate vote, I have this to say: That you propose to cut to very small sums the compensation of these men under this bill. You propose to leave them the most scanty support, a bare possible chance to live. You provide a judge to try the cases. It is true you have called him an adjuster, and you have a provision about notice of claim made before him, but if the employee gets his rights he must have a lawyer. This bill does not allow a contract between the employee and his lawyer, and it limits recoveries to small amounts. Do not take the necessary expense of trial out of the meager pittance that you leave the men. Allow the adjuster to tax the reasonable cost and the reasonable lawyers' fees and charge them to the railroad companies. That is my suggestion. I will press that on Monday and pass on now.

After the word "required," on page 20, section 14, line 21, insert the words "or without giving notice where such notice is not required."

I wish to bring this especially to the attention of the Senator from Utah, because I think when he examines the bill he will agree to it.

Mr. SUTHERLAND. Mr. President, the section already provides that in default of an agreement, after giving notice of the accident when the same is required, within six months from the date of the injury the proceedings shall be instituted. It does not seem to me that the amendment suggested by the Senator is necessary, but it puts the question beyond any doubt, and therefore I shall not object to it.

Mr. SMITH of Georgia. I understood the Senator to say he would not object to it.

Mr. SUTHERLAND. I shall not object.

Mr. SMITH of Georgia. I thought possibly some question might be raised.

Mr. SUTHERLAND. So far as I am able to do so, I will accept the suggested amendment.

Mr. SMITH of Georgia. Then I will offer the amendment now.

The PRESIDING OFFICER. Will the Senator repeat the amendment?

Mr. SMITH of Georgia. After the word "required." on page 20, section 14, line 21, insert the words "or without giving notice where such notice is not required."

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Georgia.

The amendment was agreed to.

Mr. SMITH of Georgia. On page 22, section 14, after line 11, add:

Provided, That where an employee institutes suit for an injury, claiming that same did not take place while he was employed in interstate or foreign commerce, and fails to recover in such suit, the limitation of the time for his right to proceed under this act shall begin with the termination of such suit, and not with the time when the injury to him occurred.

There will be a great many cases in which there is much doubt as to which of the laws is applicable. The employee may think that the statute we are passing is not applicable, and in that event it seems to me the statute should run from the trial of his case in the other court.

Mr. SUTHERLAND. Mr. President, I do not want to say that I will accept that now, but I recognize that there is a good deal of merit in the suggestion made by the Senator.

However, let me suggest to the Senator from Georgia that the language of the proviso is "and fails to recover in such suit, the limitation of the time for his right to proceed under this act shall begin," and so on.

Mr. SMITH of Georgia. I think it ought to be qualified so as to read "fails to recover on account of."

Mr. SUTHERLAND. Precisely. That is the suggestion I was going to make, "fails to recover on the ground that he was not engaged in interstate commerce."

Mr. SMITH of Georgia. I will agree to that qualification.

Mr. SUTHERLAND. I hope the Senator will not press that to-night. I am very much inclined to agree with the Senator about it.

Mr. SMITH of Georgia. Very well. Amend section 14 by adding paragraph 8, after pargraph 7, as follows:

(8) Employees shall have the privilege of enforcing the rights given to them under this act before the adjuster or to proceed in any State court having jurisdiction, and no suit brought in a State court under this act shall be removed to the United States court.

I will not press that now. It speaks for itself and argument upon it is hardly necessary.

My next amendment provides for striking out section 16 and substituting what I shall read:

That on the hearing of a cause of action arising under this act either party shall have the right to elect to commute the monthly payments into a fixed sum, and in that event the fixed sum shall be the present value of the annuities herein provided for, the present value to be calculated on the basis of interest at 5 per cent.

I am not sure whether that is best. I have doubt about it myself. My earnest desire is to see these men served. I want to suggest a criticism on the section as it is embodied in the bill. It undertakes to make these claims a lien, in case of failure of the roads, superior to all other liens. I do not see how that can be done. I do not see that Congress has any such power. Take the case of a railroad in a State beginning in the State and ending in the State with a State charter. Under its State charter it has issued bonds and mortgaged its property for those bonds and they have been sold. Subsequently it is consolidated in another line and enters into interstate commerce. What authority has Congress to divest those liens? What power has Congress to do it? I think it is a very dangerous proposition for Congress to be undertaking, under its interstate commerce power, to assume the authority to divest an existing lien, and I am exceedingly doubtful myself whether such an act could divest the lien.

Mr. WILLIAMS. I should like to ask the Senator from Georgia if his amendment contemplates striking out this part of section 16:

That the assignment of any cause of action arising under this act, or of any payments due or to become due under the provisions hereof, shall be void. Every liability and all payments due or to become due under this act shall be exempt from levy or sale for private debt.

Mr. SMITH of Georgia. Well, it would strike all of it out. I do not like to see it all stricken out, and yet I do think it ought to be qualified.

Mr. WILLIAMS. Why does not the Senator offer an amendment in reference to it instead of striking out this very excellent provision, which is for the protection of the laboring man?

Mr. SMITH of Georgia. I would answer the Senator that I simply did not have the time to perfect it.

Mr. WILLIAMS. It would not take five minutes.

Mr. SMITH of Georgia. I suggest that the Senator do it.

Mr. WILLIAMS. I do not want to do it; but if I wanted to modify it I would not strike out the two first provisions which make an exemption fund for the laboring man of these monthly payments so that they may not be taken from him, and so that the object of the bill, which is to give him support, may be accomplished.

Mr. SUTHERLAND. Mr. President, the provision to which the Senator from Georgia calls attention we had ourselves some doubt about, but in examining the State laws we found many statutes where the workman had been given a lien for his wages which was made superior to all other claims against the property, and those statutes seemed to have been sustained.

Mr. SMITH of Georgia. Were they sustained on statutes made subsequent to the mortgages executed?

Mr. SUTHERLAND. That is my understanding; on the same theory they sustained the mechanics' lien, although there was a mortgage upon the property. If the mechanic builds a house and adds that to the property, he has a lien for the material which he furnished upon the house. The workman who puts his work into the operations of the railroad has been instrumental in keeping it a going concern, and upon that theory, as I understand it, the statutes have been sustained. However, I frankly say to the Senator that it is a matter about which I am not entirely clear. What I was going to say finally was that if we can do it, it seems to me that we ought to do it.

Mr. SMITH of Georgia. I agree with the Senator about that, and if the Senator——

Mr. SUTHERLAND. The most that could happen to it would be for the court to say that it could not be given application as against existing mortgages. That would not affect the validity of the law in any respect. It would simply give it effect as applied to new mortgages or to new liens. Inasmuch as it will not endanger the law in any other respect, I think we had better leave it in and let the courts deal with it.

Mr. SMITH of Georgia. The trouble about that is that if it is not valid your whole system of long-time payments is objectionable. It is exceedingly dangerous to provide that the payments shall be monthly, drawn out through indefinite time, unless a lien can be given for the delayed payments.

Mr. SUTHERLAND. If the Senator will permit me, he will observe that in the bill we have provided that the findings of the adjuster shall go to the court and become automatically a judgment of the court.

The judgment, therefore, of the Federal court would become a lien upon the property within the county where the judgment was rendered and in any other county where it might be filed. Therefore the judgment would constitute a good lien against the railroad property and against all debts created after the time of the rendering of the judgment. That, I think, would afford a pretty fair protection for the payment of these claims. But, in addition to that, we put in this provision to strengthen it.

Mr. SMITH of Georgia. To make that judgment good, in nearly every section it must be carried to the various counties and recorded. It seemed to me that the bill had not gone far enough to take care of the rights of the parties as to the monthly payments, that it had not sufficiently safeguarded their rights against possible future financial trouble on the part of the companies, and it was for that reason I suggested the elective privilege of lump-sum payments, doubting myself the wisdom of the lump-sum payments and yet objecting to leaving the plaintiffs with no protection indefinitely, doubting very seriously whether the provision with reference to prior liens would be effective.

Now, there is one other criticism upon section 16 that I wish to make. What power has this employee to base an employment of his doctor on? How can he obtain the services of a doctor? At least this provision should be amended to allow him to subject his recovery to the proved expenses of his trial. You leave him nothing to borrow a cent on. You leave him nothing to send for witnesses on. When he sends for his witness he has to pay his railroad fare and his per diem to get him. You leave him helpless to litigate by providing that what he gets can not be subjected to any kind of lien; there ought to be some provision of modification that will facilitate his protecting his rights. You just leave him absolutely helpless in front of the adjuster and the claim agent so far as financial resources for litigation are concerned.

Mr. CRAWFORD. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from South Dakota?

Mr. SMITH of Georgia. Yes.

Mr. CRAWFORD. This situation appears to be one which can arise only in case the railway company is insolvent.

Mr. SMITH of Georgia. Not at all. What I am discussing now——

Mr. CRAWFORD. I mean the one making these allowances a first lien.

Mr. SMITH of Georgia. I have passed from that. I was discussing another provision.

Mr. CRAWFORD. Perhaps I am breaking in at the wrong place. I thought that was still being considered. I had been studying it.

Mr. ROOT. May I ask what has become of the amendment?

Mr. SMITH of Georgia. It is simply here. I am discussing it.

Mr. ROOT. I mean what has become of the proposed amendment relating to the lien.

Mr. CRAWFORD. Has it been laid over?

Mr. SMITH of Georgia. I have not formally introduced any of these amendments. I am reading them for information and discussion.

The PRESIDING OFFICER. The Senator from Georgia did not offer it.

Mr. SMITH of Georgia. As I read some that met the approval of the Senator from Utah, we have agreed on them and passed others.

Mr. ROOT. May I ask the Senator whether it is his purpose to introduce any further amendments this afternoon?

Mr. SMITH of Georgia. Yes.

Mr. ROOT. And ask for a vote on them?

Mr. SMITH of Georgia. I can not tell about that.

Mr. CRAWFORD. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from South Dakota?

Mr. SMITH of Georgia. I do.

Mr. CRAWFORD. What objection has the Senator to acting upon proposed amendments such as this one?

Mr. SMITH of Georgia. They are not offered yet. I should desire to discuss them all.

Mr. CRAWFORD. And then offer them later.

Mr. SMITH of Georgia. Offer them from time to time as I think the most judicious time develops.

Mr. CRAWFORD. I was going to suggest to the Senator that we could vote more intelligently, it seems to me, on an amendment after the discussion relating to that particular

amendment had closed. If we take them en bloc we may have a great deal of confusion.

Mr. SMITH of Georgia. We will try to take them up again and relieve the Senator from that embarrassment on Monday, or we might possibly reach one that we think it desirable to bring to a vote before then.

I propose to amend section 20 by striking out, in lines 19, 20, and 21, the following words: "No employee's wages shall be considered to be more than $100 a month."

We insist that provision should be stricken out; that the arbitrary provision that no employee may be regarded as making over a hundred dollars a month is utterly inexcusable. We insist that if an engineer is making $200 a month or $250 a month he should be treated as making that, and for the Senate to pass a bill arbitrarily cutting a man's estimated pay to a hundred dollars a month, although it may be two and a half times that much, can find no logic for its defense. That amendment I shall certainly press, and I hope Senators will give us a "yea-and-nay" vote on it. I trust Senators will strike that particular provision from this bill.

I propose to amend section 21, line 14, by striking out the words "for a period of eight years," and add in line 15, after the word "death," the words "during the life expectancy of the deceased."

Senators will at once see what is the object of that amendment. It is simply that we deny the propriety of limiting the meager compensation the widow is to receive to eight years. No defense can be made of the proposition to cut her off in that way. If she remarries, of course, she loses it, and if she dies she loses it. The committee had the statistics before them that the average widowhood of the widows of deceased railroad employees was 15 years, and yet they cut down the time that they give such widows the paltry part of their husband's earnings to eight years, and they cut off the children at 16. I was astonished when on yesterday Senators declined to increase that age period in the case of the children.

I desire to urge upon the Senate that this bill does not fully compensate or justly recognize the rights of the widows of these men; that when it arbitrarily provides that $100 shall be considered the limit of the salary and then arbitrarily provides that the widow shall not have more than 40 per cent of that, and not have it for more than eight years, and seeks to wipe out her present rights, it can not be defended. And the million eight hundred thousand railroad men will rise and protest against it. They ought to do so; they ought to make themselves heard in protest against such treatment.

I propose to amend section 21, on page 30, in lines 17, 18, 21, and 22, by striking out the word "sixteen" and inserting "twenty-one," and on page 31, line 16, by striking out the words "for the unexpired part of the period of eight years." That amendment provides that the time children shall receive compensation for the death of their fathers shall not be 16 years, but 21 years. Why not? The law gives them far more now.

You can not magnify the idea of taking care of those whose own negligence is the sole cause of accident and mislead the people who are interested in this measure. They will come back to you and say, "If, in the kindness of the legislators, those who are injured exclusively by their own negligence are to be cared for, do not take the money, two or three times over, out of the pockets and out of the rights of those who have been injured when free from fault." We will urge upon the Senate the amendment striking out the age limit at 16 and putting it at 21.

I propose to move to amend, on page 34, lines 5 and 6, by striking out "50 per centum," so as to read: "Where permanent total disability results from any injury there shall be paid to the injured employee the monthly wages of such employee during the remainder of his life."

Why not? Later on in this bill I propose to offer an amendment providing that compensation here suggested shall only go to those employees who are injured without fault on their part, but that the compensation of those injured through their own fault shall be the amount provided in the pending bill; but I shall seek to amend the pending bill so as to provide that the employee injured without his fault through the negligence of the corporation shall have preserved to him at least the financial compensation to which he is now entitled under the employers' liability act. I do not ask that he shall have compensation for his pain and suffering and deformity, but I do insist—and that is the effect of this amendment—that the employee who is injured by the negligence of the defendant railroad company shall receive the compensation that he now gets, so far as his financial loss is concerned, though not, I repeat, for his pain and suffering and deformity. I ask that his compensation shall be proportioned to the income that he was making; that is, if his total disability is brought about by an accident, then his compensation shall be his monthly wages during the total disability; and if that total disability is permanent, then that it shall be during his life; and if it is temporary, then that it shall be while the disability lasts. That amendment I shall ask you to vote upon.

Mr. SUTHERLAND. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Utah?

Mr. SMITH of Georgia. Certainly.

Mr. SUTHERLAND. Several Senators have been to me and suggested that they are weary, that it is Saturday afternoon, and that we ought to take a recess until Monday morning. I was going to suggest to the Senator from Georgia, if it would be agreeable to him, that we can meet at an earlier hour than has heretofore been suggested.

Mr. SMITH of Georgia. I should like to press these proposed amendments just a little further, and then I shall be ready to agree to a recess. I want it known that there are issues between us; I want the issues to be known, and I want them in the CONGRESSIONAL RECORD.

Mr. CRAWFORD. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from South Dakota?

Mr. SMITH of Georgia. Yes; for a question, but for nothing else.

Mr. CRAWFORD. That is what I want. I want to find out what this issue is. Do I understand the Senator correctly in this, that he wants to preserve all the old distinctions between the men who sustained injuries in line of duty, but who are chargeable with negligence, and those who are not negligent? Does he wish to preserve that old distinction and the old distinctions relating to fellow servants?

Mr. SMITH of Georgia. Certainly not; I think they were barbarous.

Mr. CRAWFORD. Very well. Where are you going to draw the line between the men for whom you want to preserve the right to recover damages, as they have it under the old conditions, and limit others to the rights and benefits of this act?

Mr. SMITH of Georgia. I can answer the Senator easily. I want to preserve to every man the rights he has at common law and under the employers' liability act.

Mr. CRAWFORD. Under the employers' liability act?

Mr. SMITH of Georgia. Yes.

Mr. CRAWFORD. That is the act of 1908.

Mr. SMITH of Georgia. Precisely. I want to preserve for the employees what they now have, and I want whatever else you do to be something more for them without taking from them what they now have.

Mr. CRAWFORD. You will still have a class of worthy men who go out maimed, halt, blind, and some of them to their deaths, who can not be helped under the employers' liability act of 1908, and who are absolutely remediless at common law or under the laws of the several States. The Senator from Georgia would give that class, which is very large in number and very worthy, the benefit of this bill, but, of course, they would be denied any other benefit?

Mr. SMITH of Georgia. That is true.

Mr. CRAWFORD. And he wishes to reserve these additional benefits for the more fortunate class who might otherwise come in under the act of 1908 or under the old rules pertaining to negligence?

Mr. SMITH of Georgia. I will answer the Senator.

Mr. CRAWFORD. Do I understand that that is the Senator's position?

Mr. SMITH of Georgia. Partly so and partly not. I can make it very clear to the Senator, clearer than his question would indicate. I believe in the employers' liability act; I think it is a righteous law. I think the line of decisions following Priestly *v.* Fowler were court-made law to a large extent, built on precedents and at the sacrifice of human rights and human blood. I think that the Congress has wisely passed the employers' liability act. I want to leave to the men their rights both at common law and under the employers' liability act as they stand, and I am willing to join the Senator in giving the benefits of the meager pay that is offered in this bill to the men who heretofore have not been provided for; but I am not willing for you to take care of the men who have not heretofore been provided for by taking $2 out of the pockets and from the rights of the men heretofore provided for for every dollar which I believe this act will give to the men who have not been heretofore provided for.

Mr. SUTHERLAND. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Utah?

Mr. SMITH of Georgia. Yes.

Mr. SUTHERLAND. One theory—I will not undertake to state the whole argument in favor of this proposition—but one theory upon which it is based is this——

Mr. SMITH of Georgia. One moment. I do not want to take the time of the Senate longer than 6 o'clock, and I am anxious to put in the remainder of my amendments before that time.

Mr. SUTHERLAND. I wanted to get the Senator's view of this matter. It will take but a moment to state what I have in mind.

Mr. SMITH of Georgia. Very well.

Mr. SUTHERLAND. We are not dealing with cases that have already occurred; we are dealing with cases that will occur in the future. The effect of a law of this kind is to say to the employer, "There will be accidents happen to your employees in the future. It can not be told in advance whether those accidents will occur in such manner that you will be liable for a large amount of damages or that you will be liable for nothing. Now, we will say in advance to you, no matter how this accident occurs, whether under circumstances that you will be liable or under circumstances that you will not, we will compel you to pay what we regard as a fair proportion of the loss." Then we say to the employee, "You are going to be injured in the future, but it can not be told whether you will be injured under such circumstances that you can recover a large verdict or that you can recover nothing, and we say to you in advance, no matter how this accident may occur we will guarantee you a certain definite sum of money."

It seems to me that that presents a logical and sensible basis for a law and presents a basis upon which the Supreme Court would hold the law to be constitutional, but where the Senator proposes to provide in his amendment that the master or the employer shall continue to be liable for his negligence and superadd to that a liability in every case where he is not liable for negligence you propose a law that the Supreme Court would not fail to declare to be unconstitutional.

Mr. SMITH of Georgia. I do not think the Senator from Utah believes that if this bill were made cumulative, without being made the sole remedy, it would be unconstitutional or that it would affect its constitutionality at all.

Mr. SUTHERLAND. Mr. President, I do think that it would affect its constitutionality. That is the precise law that was involved in the Ives case in New York, a case which I think has been somewhat misunderstood, but that was the precise law which the Court of Appeals of New York held to be unconstitutional.

Mr. SMITH of Georgia. I do not think there is any trouble about that; not the slightest.

What are they undertaking to do upon this bill? The Senator says they propose in the future to hold out to the injured employees certain compensation. Let us scan it a little. That compensation is not based on what they make; it does not recognize what each man is earning; it undertakes arbitrarily to cut the salaries of many of them in half; and then it undertakes to cut that half in two. They undertake to do it with no statistics and no information as to what the men get now. They do it arbitrarily at a time when the men are beginning to receive the benefits from the most beneficent act that was ever passed. They do it in a way that can have but one effect, and that is to serve the railroad companies, the defendants.

I deny the right or the wisdom of wiping out the present laws and giving such a meager, trifling substitute to the men. Therefore I urge that if you take from the employees who are hurt without negligence all compensation for pain and suffering and deformity you have taken one-third from them. It is as little as you should do to leave them with provision made to pay their actual financial loss. As to the others, those who are injured as the result of contributory negligence, one-half the sum you give could be agreed on; but to take the man who was free from negligence and who was making, perhaps, $250 a month, and who was injured exclusively by the negligence of the defendant, and arbitrarily cut his salary to a hundred dollars, say you will not recognize him as making but two-fifths of what he was making; then arbitrarily say you will pay him but one-half of that two-fifths, or one-fifth of what he was making before; and then arbitrarily say, when you injure him for life by cutting off his arm or leg, that you will not pay except for a few months that paltry $50, only a little over a year's compensation in all, is treatment you can not defend. You can not defend it on the theory that you want a contribution to take care of the negligent; you can not defend it on the theory that perhaps he might have been injured when he was negligent. He might well say to you, "Suppose I was; you give me but a year's salary, and I would rather risk that." You have not put enough in it; you have made it narrower and closer and harder than the law found in England or in Germany.

I criticize the plan of compensation provided by this bill for those permanently disabled to a partial extent. If a man has lost his arm, his damage is for life, not for a few months, and he should receive compensation for life. What is he to do after the few months pass?

That is not the plan upon which you handle pensions. Take your pension laws, which I brought here to call to your attention. You give a hundred dollars to a man who has lost two hands or two feet. You give him from $50 to $75 for smaller injuries. You go through the whole list of injuries, and the compensation is for life. Why should a permanent injury, although only partial in its extent, not be compensated for for life? If the arm is gone for life, if the leg is gone for life, the theory of this bill, which compensates for a few months and stops, is unsound. The true rule should be to determine what percentage shall be allowed for the extent of the injury, and carry that through life.

What is he to do at the end of a few months? This bill was to have been rushed through the Senate in a day and it would have been rushed through in less than a day had not some of us felt that attention should be called to it. You will still rush it through about 30 days after the committee reported on it. Great matters of this kind are usually allowed to lie upon the desk for the fullest consideration. Why are the Senators unwilling for it to go over until December? Are they afraid it will weaken as it is publicly examined? Are they afraid it will break down in front of public criticism?

I hope it will not be passed across the Hall. I hope that, even if the Senate decides to pass it, it will not be concluded before next December. If it is to be postponed until next December, why would it not be wise to keep it here and let us consider it until next December, too? I do not believe it can possibly be rushed through in the other House, although I do not know. It is a violation of the rules of this body to surmise what the other House will do, and I suppose I should withdraw the surmise.

This bill, amended as I suggested, would provide that where a partial permanent disability takes place it would give compensation through life. I suggest that an amount equal to 50 per cent of his wages shall be paid to the injured employee for the balance of his life in the following instances:

The loss by separation of arm at or above the elbow joint or the permanent and complete loss of use of one arm.

The loss by separation of one hand at or above the wrist joint or the permanent and complete loss of the use of one hand.

The loss by separation of one leg at or above the knee joint or the permanent and complete loss of the use of one leg.

Then, further down, I suggest smaller percentages of compensation, but I carry the percentages through life where the partial injury is one which will run through life. The bill as now framed will only compensate to the extent of a small amount each month for a few months for these injuries.

Mr. President, I have brought these amendments now to the attention of the Senate, if not to the attention of Senators, and I trust somewhat, through the splendid opportunity that this forum furnishes, to those outside of the Senate. As I stated at the outset, I have never had any thought of undertaking anything like an obstruction of legislation in the sense of an effort to continuously prevent a vote; but I have all the way through contemplated, if it was necessary to obtain just a few days' hearing, to waste some time, if compelled to waste it. However, I am glad to say that what I feared would be a situation that might force us to that course has not existed. I have finished all that I wish to say at this time.

Mr. SUTHERLAND. I ask that the bill be reprinted, showing the amendments thus far adopted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SMITH of Georgia. I should like to ask also that the amendments offered by me be reprinted. There is an error on the first page, and the edition is exhausted.

RETIRED SOLDIERS (S. DOC. 642).

The PRESIDING OFFICER (Mr. GALLINGER) laid before the Senate a communication from the Secretary of War, transmitting a petition from sundry retired officers requesting that

the provisions of Senate bill 2605, Sixty-second Congress, first session, be extended so as to include retired soldiers with creditable Civil War service, which, with accompanying paper, was referred to the Committee on Naval Affairs and ordered to be printed.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the Speaker of the House had signed the enrolled bill (H. R. 23774) providing an appropriation to check the inroads of the Missouri River in Dakota County, Nebr.

PETITIONS AND MEMORIALS.

The PRESIDING OFFICER presented a petition of the congregation of the Swedish Temperance Church of Worcester, Mass., and a petition of the congregation of the Swedish Methodist Episcopal Church, of Gardner, Mass., praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating liquors, which were referred to the Committee on the Judiciary.

Mr. SANDERS presented petitions of sundry citizens of Selmer, Tenn., praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating liquors, which were referred to the Committee on the Judiciary.

Mr. LODGE presented memorials of the Massachusetts Cotton Mills, the Boston Manufacturing Co., the Whittenton Manufacturing Co., the Salmon Falls Manufacturing Co., and the Pacific Mills, all in New England, and the memorial of Stephen M. Weld and sundry other citizens of Boston, Mass., remonstrating against the adoption of the Covington amendment to the Panama Canal bill, which were referred to the Committee on Interoceanic Canals.

Mr. CLAPP presented a memorial of members of Group 81, Polish National Alliance of the United States of North America, of Duluth, Minn., remonstrating against the enactment of legislation to restrict immigration, which was referred to the Committee on Immigration.

Mr. PENROSE presented a petition of the Philanthropic Committee of the Philadelphia Yearly Meeting of Friends, of Pennsylvania, praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating liquors, which was referred to the Committee on the Judiciary.

He also presented a petition of the Lampeter Branch of the Lancaster County Farmers' Association, of Pennsylvania, praying for the establishment of a parcel-post system, which was referred to the Committee on Post Offices and Post Roads.

Mr. WETMORE. I present resolutions adopted by the General Assembly of the State of Rhode Island, which I ask may be printed in the RECORD and referred to the Committee on Commerce.

There being no objection, the resolutions were referred to the Committee on Commerce and ordered to be printed in the RECORD, as follows:

STATE OF RHODE ISLAND, ETC.,
IN GENERAL ASSEMBLY,
January Session, A. D. 1912.

Resolution requesting the Congress of the United States to pass such laws, rules, and regulations concerning the navigation of vessels engaged in international and coastwise trade as will safeguard and protect the lives and property of passengers and crews, and for the equipment of such vessels and steamers with sufficient and adequate boats, rafts, and appliances.

Whereas it has come to the attention of this body that on the 15th day of April, A. D. 1912, more than 1,500 lives were destroyed by the disastrous collision of the steamship *Titanic*, while proceeding to the port of New York; and

Whereas it further appears to this body that the existing laws, rules, and regulations concerning and appertaining to the navigation of vessels and steamers while engaged in the transportation of passengers between international and coastwise ports are inefficient for the protection and preservation of the life and property of the passengers and crews thereof; and

Whereas it appears to this body that the existing laws, rules, and regulations concerning and appertaining to the equipment of vessels with boats, rafts, and other appliances and apparatus for the protection and preservation of the lives and property of the passengers and crews while engaged in the transportation of passengers between international and coastwise ports are wholly inadequate and inefficient; and

Whereas it appears to this body that many vessels and steamers at present engaged in international and coastwise trade are being so navigated as to endanger the lives of the passengers and crews thereof, and that they are insufficiently and inadequately equipped and provided with boats, rafts, or other apparatus and appliances for the safety and protection of the passengers and crews in case of accident, collision, or other disaster: Therefore be it

Resolved, That the Congress of the United States of America be, and it is hereby, requested to take such immediate action as in its judgment it may deem fit and proper to the end that efficient laws, rules, and regulations concerning the navigation of vessels engaged in international and coastwise trade be passed and adopted as will safeguard and protect the lives and property of passengers and crews thereof, and to the further end that all such vessels and steamers be equipped with sufficient and adequate boats, rafts, and other apparatus and appliances for the safety, protection, and preservation of the passengers and crews thereof; therefore be it further

Resolved, That the Senators and Representatives from this State in Congress now assembled be and they are requested to use their utmost efforts to the end aforesaid, and that a copy of this resolution be sent to each of them forthwith.

STATE OF RHODE ISLAND,
OFFICE OF THE SECRETARY OF STATE,
Providence, May 3, 1912.

I hereby certify the foregoing to be a true copy of the original resolution approved by his excellency the governor on the 29th day of April, A. D. 1912.

In testimony whereof I have hereunto set my hand and affixed the seal of the State aforesaid the date first above written.

[SEAL.] J. FRED PARKER,
Secretary of State.

Mr. ASHURST. I present a number of telegrams in the nature of memorials, which I ask may lie on the table and be printed in the RECORD.

There being no objection, the telegrams were ordered to lie on the table and to be printed in the RECORD, as follows:

BISBEE, ARIZ., *May 2, 1912.*

Hon. HENRY F. ASHURST,
United States Senate, Washington, D. C.:

Owen medical bill is dangerous, for the reason that it is an opening wedge to the establishment of governmental medicine, which is equally as bad as governmental religion. I pray that you will please change your campaign promise and vote against the bill.

JOHN J. PATTON.

—

BISBEE, ARIZ., *May 2, 1912.*

Hon. HENRY F. ASHURST,
United States Senate, Washington, D. C.:

Please ignore your preelection pledge and vote against the Owen medical bill, as it is an opening wedge for governmental medicine, which is as dangerous as governmental religion. In this land let us have "freedom ring."

MABEL BROSTROM.

—

BISBEE, ARIZ., *May 2, 1912.*

Hon. HENRY F. ASHURST,
United States Senate, Washington, D. C.:

Hope you see the injustice Owen bill restricting the rights of mental freedom. We should have our liberty to choose medically as well as religiously. This bill is an encroachment on the sacred rights of the people. Trust you will do all in your power to defeat this bill.

LEVINA DOHERTY.

—

PRESCOTT, ARIZ., *May 2–3, 1912.*

Hon. HENRY F. ASHURST,
United States Senate Chamber, Washington, D. C.:

We believe the Owen bill to be pernicious and against the public interests, and we ask you to work and vote against its passage.

H. H. Billes, W. W. Elliott, M. T. Tribby, E. A. Kaatner, Geo. Bentson, D. W. Russell, H. W. Heap, C. H. McLane, J. B. Regers, M. E. Spaulding, John Lawler, T. J. Nolan, Anton Schneider, H. Brinkmeyer, Thos. J. Crowl, Ed. W. Wells, W. T. Hargrove, D. J. Sullivan, J. W. Hobbs, B. Tilton, A. J. Head.

—

WILLCOX, ARIZ., *May 2, 1912.*

HENRY F. ASHURST,
United States Senate, Washington, D. C.:

We ask you to vote against the Owen bill.

Mrs. Wm. M. Riggs, Mrs. Jas. J. Riggs, Mrs. Wm. A. Stark, Mrs. Gus. L. Moore, Mrs. Theo. Waughtel, Mrs. Ed. Riggs, Harvey Amalong, Mrs. B. G. Hines, Mrs. Kate Gardner, Miss Georgia Gardner, Mrs. Lucinda Soule.

—

TUCSON, ARIZ., *May 2–3, 1912.*

Senator H. ASHURST,
Washington, D. C.:

Your attention to vote medical bill in Arizona Senate of 12 to 2 in favor medical freedom. Think as American citizens are entitled to as much freedom in religious matters as in medical. Hope you can see your way clear to help defeat the Owen bill.

W. S. EDWARDS.

—

WILCOX, ARIZ., *May 2–3, 1912.*

Senator HENRY F. ASHURST,
Washington, D. C.:

We, the undersigned free-born American citizens of the United States, emphatically protest against the passage of any such un-American measure as the Owen bill now before Congress, and feel that we should request our Senators to assist in killing the bill.

E. A. ELY. T. F. MERRILL.
W. I. CRAWFORD. S. N. KEMP.
GEO. A. HANMORE. Mrs. G. S. RICABY.
W. KALT RELEUX. H. A. MORGAN.

—

BISBEE, ARIZ., *May 2, 1912.*

Hon. H. F. ASHURST,
United States Senate, Washington, D. C.:

The Owen medical bill is dangerous because it is the opening wedge to governmental medicine, which is as wrong as governmental religion. Please ignore your preelection pledge and vote against the bill.

J. G. PRITCHARD.

BISBEE, ARIZ., *May 2, 1912.*

Hon. HENRY F. ASHURST,
United States Senate, Washington, D. C.:

I understand you pledged yourself during the campaign to support the Owen medical bill. If this is so, please reconsider before voting. The bill is dangerous because it is designed as an entering wedge to establish governmental medicine, which would be as unconstitutional as governmental religion.

BRUCE PERLEY.

TUCSON, ARIZ., *May 3, 1912.*

HENRY F. ASHURST,
United States Senate, Washington, D. C.:

Myself and family believe in Christian Science and are opposed to the provisions of the Owen bill, whereby we will be prohibited from practicing the tenets of our belief. We think it is against the spirit of our institutions and earnestly ask your assistance in defeating it.

Mrs. S. H. DRACHMAN.

Mr. ASHURST presented petitions of sundry citizens of Tempe, Mesa, and Camp Verde, all in the State of Arizona, praying for the adoption of an amendment to the mining laws making valid all oil locations without the necessity of discovery of oil prior to location, which were referred to the Committee on Mines and Mining.

Mr. POINDEXTER presented a petition of members of Pend Oreille Grange, Patrons of Husbandry, of Newport, Wash., praying for the establishment of a governmental postal express, which was referred to the Committee on Post Offices and Post Roads.

He also presented telegrams in the nature of memorials from B. H. Hotchkin, of Wenatchee; George N. Tuesley, of North Yakima; O. D. Sterling, of Walla Walla; Dr. J. E. Lydon, of Spokane; W. T. Thomas, of Tacoma; H. W. Newton, of Spokane; C. S. Jackson, of Aberdeen; J. W. Hodge, of Aberdeen; Mrs. Max Baumeister, of Walla Walla; J. A. Hood, J. J. Carney, F. W. Loomis, John B. Orlorn, and J. E. Anderson, of Aberdeen; Margaret Center, of Walla Walla; J. A. Marmaduke, of Seattle; Caryll T. Smith and sundry other citizens of Aberdeen; N. C. Wilson, of Walla Walla; and of sundry citizens of Seattle, all in the State of Washington, remonstrating against the passage of the so-called Owen medical bill, which were ordered to lie on the table.

He also presented petitions of the Woman's Christian Temperance Unions, of Cashmere, Prescott, and Waitsburg, all in the State of Washington, praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which were referred to the Committee on the Judiciary.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CULLOM:

A bill (S. 6685) granting a pension to Sara Sibree Bornemann (with accompanying papers); to the Committee on Pensions.

By Mr. OWEN:

A bill (S. 6686) authorizing the Secretary of the Interior to permit exchanges of lands of Osage allottees, and for other purposes; to the Committee on Indian Affairs.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. Latta, executive clerk, announced that the President had approved and signed the following joint resolution:

On April 30, 1912:

S. J. Res. 102. Joint resolution relative to the rebuilding of certain levees on the Mississippi River and its tributaries.

AGRICULTURAL APPROPRIATION BILL.

Mr. BURNHAM. I desire to give notice that on Tuesday next, at the conclusion of the routine morning business or as soon thereafter as there may be an opportunity, I shall ask the Senate to proceed to the consideration of the bill known as the agricultural appropriation bill, being House bill 18960.

RECESS.

Mr. SUTHERLAND. I move that the Senate now take a recess until the calendar day of Monday at 11.50 o'clock a. m.

Mr. REED. I thought the Senator was going to make the hour of meeting earlier than that.

Mr. SMITH of Georgia. Say, 11 o'clock.

Mr. REED. It will take a long time to discuss the long amendments.

Mr. SUTHERLAND. Very well; I will change it to the hour of 11 o'clock.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Utah that the Senate now take a recess until 11 o'clock on Monday morning.

The motion was agreed to, and (at 5 o'clock and 50 minutes p. m., Saturday, May 4) the Senate took a recess until Monday, May 6, 1912, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES.

SATURDAY, *May 4, 1912.*

The House met at 11 o'clock a. m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Eternal and ever-living God, our heavenly Father, we bless Thee for that deep and hidden spring within, which is ever urging us onward and upward to the heights of spiritual glory. That something, strange and mysterious, which will not be satisfied with less than the best make us tractable to the holy influence. That our light may so shine before men that they may see our good works and glorify our Father in heaven. In the spirit of the Lord Jesus Christ. Amen.

The Journal of the proceedings of yesterday was read and approved.

DAMS ACROSS THE SAVANNAH RIVER.

Mr. ADAMSON. Mr. Speaker, I ask the Speaker to lay before the House Senate bill 5930, an act extending the time for the completion of dams across the Savannah River, granted by act approved February 29, 1908, a House bill for the same purpose being on the calendar, reported from the House Committee on Interstate and Foreign Commerce.

The SPEAKER. The Chair lays before the House the bill (S. 5930) to extend the time for the completion of dams across the Savannah River by authority granted to Twin City Power Co. by an act approved February 29, 1908.

Mr. MANN. Is this the same bill as the bill reported to the House?

Mr. ADAMSON. It is, with a slight difference, which I want to correct by an amendment. It is for the same purpose.

Mr. MANN. What is the difference?

Mr. ADAMSON. The Senate bill requires the completion in conformity with the act of June 23, 1910. The House bill did not contain that provision, but the report sets out the reasons why it was not so amended as recommended by the War Department. The only difference is that we would like to exempt it from the second proviso in section 4 of the act of June 23, 1910, by reason of the expenditure of money heretofore made in reliance upon the original grant of consent.

Mr. MANN. I submit, Mr. Speaker, that where a Senate bill is taken from the Speaker's table because it is substantially the same as the House bill already reported, it must be substantially similar, otherwise the Members of the House can not tell what they are voting upon.

The SPEAKER. That is undoubtedly the rule, as stated by the gentleman from Illinois.

Mr. MANN. Certainly bills are not substantially similar where one bill provides for 50 years' franchise and another bill for an unlimited franchise.

The SPEAKER. The Chair thinks that is correct.

Mr. ADAMSON. The bills are for the same purpose.

The SPEAKER. It makes no difference if they are for the same purpose, if they are not substantially the same. If objection is made, the bill will have to be referred to the Committee on Interstate and Foreign Commerce.

Mr. MANN. I will not object, Mr. Speaker.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. ADAMSON. Mr. Speaker, I offer the following amendment.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

In line 6, page 3, after the word "six," insert:

"Excepting the second proviso in section 4 of the said act of June 23, 1910, that the authority granted shall terminate at the end of a period not to exceed 50 years. This extension of time is exempted from that proviso by reason of the expenditures of money heretofore made in reliance upon the original grant of consent."

The amendment was agreed to.

The bill as amended was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. ADAMSON, a motion to reconsider the vote whereby the bill was passed was laid on the table.

A similar bill (H. R. 22092) to extend the time of the Twin City Power Co. for the completion of a dam across the Savannah River was laid on the table.

INDEPENDENT GOVERNMENT FOR THE PHILIPPINES.

Mr. GARRETT. Mr. Speaker, I have a request for unanimous consent, which I have reduced to writing and will ask to have the Clerk read.

The Clerk read as follows:

I ask unanimous consent that the bill (H. R. 22143) to establish a qualified independent government for the Philippines, and to fix the date when such qualified independence shall become absolute and com-

plete, and for other purposes, and also House joint resolution 278, to authorize the President of the United States to secure the neutralization of the Philippine Islands and the recognition of their independence by international agreement, which bill and resolution have been favorably reported by the Committee on Insular Affairs and are now upon the calendar, shall have the same status as privileged reports of committees provided for in the first section of paragraph 56 of Rule XI; and that in the consideration thereof in Committee of the Whole House on the state of the Union general debate shall be confined to their subject matter and matters relating thereto. General debate upon the two propositions shall be limited to 30 hours, one-half of same to be controlled by the gentleman from Virginia [Mr. JONES] and one-half by the gentleman from Pennsylvania [Mr. OLMSTED].

Mr. MANN. Mr. Speaker, reserving the right to object, I did not catch the latter part of the reading.

Mr. GARRETT. As to the amount of time and division of time? It fixes the amount of time at 30 hours, 15 hours on a side on the two propositions.

Mr. MANN. Is it the idea of the gentleman to have these bills made practically continuing orders, subject to the consideration of appropriation bills and other privileged matters, or to come in ahead of appropriation bills?

Mr. GARRETT. Mr. Speaker, there is no intention of displacing the business of the House with the consideration of this resolution any more than is proper. It will be a matter of agreement and arrangement between the chairmen of the various committees and the Speaker and other gentlemen of the House.

Mr. MANN. Yes; but we met this situation the other day: The gentleman from Georgia [Mr. ADAMSON] had the Panama *toll bill* made privileged. Thereupon he intended to call it up ahead of the legislative appropriation bill and had very strong equities in his favor, and now is promised that it will come up ahead of the naval appropriation bill, the sundry civil bill, and the general deficiency bill. Does not the gentleman think that his request ought to be subject to the consideration of appropriation bills, so that there will be no conflict in the House between the chairmen of the different committees endeavoring to get the Chair to recognize one or the other?

Mr. FITZGERALD. If the gentleman will permit me, I have a provision that I shall ask to have inserted in the gentleman's request, or I shall be forced to object; providing that general appropriation bills shall at all times have preference over the bill and resolution herein mentioned. It is very embarrassing to those in charge of appropriation bills, as well as to the Speaker, to attempt to keep track of business that may be made privileged, unless closer contact can be had, because of the work that engrosses Members who are preparing bills, and inadvertently causes misunderstandings to arise. If this provision be adopted no misunderstanding can arise.

The SPEAKER. The Chair will state to the House that there are two special orders in force now. One of them will only take one day; that is, the next legislative day after the consideration of the legislative bill is ended, excluding Wednesday and the first and third Mondays, is to be devoted to business on the Private Calendar. The other is the one the gentleman from Illinois referred to, the Panama Canal toll bill. That is a standing order.

Mr. GARRETT. Mr. Speaker, I want to make this statement as the reason for asking to have this done in this way. Of course it could be done by a rule. A rule can be brought in, and if the House chooses to pass it, it will make it in order at any time.

But it was thought best after a conference between the majority and minority members of the Committee on Insular Affairs to try to do it in this way, in the belief that it would interfere less with the business of the House. If we brought in a rule, it would be almost impossible to know in advance what time to fix. I think under this plan there will be a better opportunity for gentlemen to prepare themselves for debate, and there will be better opportunities for Members to know when the bill will be likely to come up than if we resorted to the other method.

Mr. MANN. The old practice, which I think was better, was to make a bill like this a continuing order, subject to appropriation bills and other privileged matters before the House, so that when other privileged matters were to come up the bill would not be in order, but when we did not have other privileged matters in order the bill would be a continuing order.

Mr. SHERLEY. Mr. Speaker, I have never been a believer in tying the hands of the House in advance. There are a number of bills that, in my judgment, are as much—and perhaps more—desirable to be considered than the bill now being presented for special privilege. Believing that, and realizing the time of year, the situation of the calendar generally, and the need of putting appropriation bills through, I shall take upon myself the burden of objecting to unanimous consent.

The SPEAKER. The gentleman from Kentucky objects.

NAVAL EXPENDITURES.

Mr. PADGETT. Mr. Speaker, I desire to call up a privileged resolution from the Committee on Naval Affairs.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 363.

Whereas it was provided by an act entitled "An act making appropriations for the naval service for the fiscal year ending June 30, 1912, and for other purposes," approved March 4, 1911, that certain sums should be expended only upon certain terms and conditions, namely:

First. For "Increase of the Navy; torpedo boats: On account of submarine torpedo boats and subsurface destroyers, heretofore authorized, $890,833.88: *Provided*, That no part of this appropriation shall be expended for the construction of any boat by any person, firm, or corporation which has not at the time of the commencement and during the construction of said vessels established an eight-hour workday for all employees, laborers, mechanics engaged in doing the work for which this appropriation is made: *Provided*, That this limitation shall not apply to payments to be made upon vessels authorized prior to the approval of this act."

Second. It was further provided that "The total increase of the Navy, $26,005,547.67." * * * "*Provided*, That no part of any sum herein appropriated shall be expended for the purchase of structural steel, ship plates, armor, armament, or machinery from any persons, firms, or corporations who have combined or conspired to monopolize the interstate or foreign commerce or trade of the United States, or the commerce or trade between the States and any Territory or the District of Columbia, in any of the articles aforesaid, and no purchase of structural steel, ship plates, or machinery shall be made at a price in excess of a reasonable profit above the actual cost of manufacture. But this limitation shall in no case apply to any existing contract."

Resolved, That the Secretary of the Navy be, and he is hereby, directed, if not incompatible with the public interest, to report to the House of Representatives, for its information, what sums appropriated in said act have been expended for ships, torpedo boats, armor or armament, ship plates, structural steel, or machinery, and what amount, if any, has been paid for said torpedo boats or their armament, or for any supplies, munitions of war, or other articles or things provided for in said act, to the United States Steel Corporation, or any subsidiary company of said corporation, and if any such purchase has been made, whether before or after the 27th day of October, 1911.

And the Secretary of the Navy is further directed to report whether the Navy Department has received bids or entered into any contract agreement or understanding, whether oral or written, for the purchase of armor or armor plate, structural steel, ship plates, machinery, or other article or thing provided for in said act with said United States Steel Corporation, or any subsidiary company thereof, and whether such contract or agreement, if made, was entered into before or after said 27th day of October, 1911.

If any such purchases have been made, bids received, or contracts entered into with said United States Steel Corporation, or any subsidiary company thereof, the Secretary of the Navy is directed to report to the House of Representatives, for its information, all the facts and circumstances within the knowledge of the Navy Department under which any such purchases may have been made, bids received, or contracts, understandings, or agreements negotiated or entered into.

The committee amendment was read, as follows:

Strike out all after the word "resolved," in line 1, page 2, and insert the following:

"That the Secretary of the Navy be, and he hereby is, directed to report to the House of Representatives, for its information, a full statement and complete list of all bids received, contracts made, and moneys expended, giving the names of all persons, firms, or corporations submitting bids or with whom contracts were made, together with the dates and amounts of each bid submitted and contract entered into, under the provisions of the paragraphs 'Increase of the Navy; torpedo boats' and 'Increase of the Navy; armor and armament,' of the act entitled 'An act making appropriations for the naval service for the fiscal year ending June 30, 1912, and for other purposes,' approved March 4, 1911."

Mr. PADGETT. Mr. Speaker, I desire to yield to the gentleman from Kentucky [Mr. STANLEY], the author of the resolution.

Mr. STANLEY. Mr. Speaker, the real menace to the prosperity of the people and the maintenance and security of this Government is within and not without our borders. There is no probability that an "army with banners" will in the near future cross our borders or that a hostile fleet will threaten the cities by the sea.

We are face to face with the menace of monopoly. It is farcical for this Government to attempt to foster and restrain monopoly at the same time. If we are to-day unable to build battleships without paying an excessive price to an Armor-Plate Trust, operating in open violation of law, and without the necessity of having high officials either close their eyes to such violation of law or connive at it, then we should start now upon the construction of a sufficient plant to make our own armor plate. The frauds which have hitherto been perpetrated should warn us that we can not expect these concerns to manufacture armor of such quality as to stand the tests which they have so often evaded or to supply this armor at a reasonable price.

If the makers of armor are sufficiently powerful to force officials to shut their eyes to an unlawful combination, even now arraigned by the Department of Justice, they may be powerful enough to force those same officials to close their eyes to the inferiority and defects in that same armor plate. Both the majesty of the law, the security of the thousands of brave men, and the future dominance of the flag upon the sea demand the passage of this resolution. Every Secretary of the Navy who

has investigated this question in the last 20 years has found that an Armor-Plate Trust did exist even before the formation of the gigantic combinations in the steel business which now exist were ever formed, before the United States Steel Corporation and the International Harvester Co. were ever dreamed of.

If isolated concerns, competing in other respects, were enabled in the past repeatedly and successfully to sell to this Government faulty and inefficient armor, attached to the ships by weak and treacherous bolts, and if they were able, as has been demonstrated, to induce their employees and others to supply false and worthless tests to such armor and fastenings, although they knew the lives of brave men and the honor and security of their country were imperiled by their pitiless and criminal cupidity, and enabled to form combinations and to make agreements international in their scope, by which this worthless armor and its treacherous fastenings were sold to this and other Governments, may we not reasonably apprehend that great combinations, which are now charged by the Department of Justice with the gravest offenses and the most extensive and pernicious combinations in restraint of trade in violation of the law, will not at this time overlook this hitherto fertile field for exploitation and extortion?

Congress, dreading the consequences of such a combination and apprehending the perils to national honor and security and to those who have consecrated their lives to their country's defense, wisely enacted this drastic legislation expressly prohibiting the Secretary of the Navy from expending the funds of this Government upon those who do not respect its laws and who may care less for its security than their own personal emolument.

The question was taken, and the committee amendment was agreed to.

The resolution as amended was agreed to.

Mr. MANN. The committee recommended the striking out of the preamble, and that vote comes after the passage of the resolution.

The SPEAKER. The question is on striking out the preamble.

The question was taken, and the motion was agreed to.

PUBLIC DEBT OF VIRGINIA.

Mr. DAVIS of West Virginia. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD, for the purpose of inserting a very able address made by the gentleman from West Virginia [Mr. HAMILTON] before the Committee on the Judiciary on the 24th of April, 1912, in reference to the formation of the State of West Virginia and the obligations on the part of the Government of the United States. [Applause.]

The SPEAKER. The gentleman from West Virginia asks unanimous consent to extend in the RECORD a speech made by his colleague [Mr. HAMILTON of West Virginia].

Mr. MANN. Mr. Speaker, reserving the right of object, has not this speech already been printed by the Government?

Mr. DAVIS of West Virginia. Not in the RECORD.

Mr. MANN. No; but printed in the hearings.

Mr. DAVIS of West Virginia. As a part of the hearings only, and is interspersed with other matter. The speech, I think, is of sufficient historical value to justify its preservation in this form.

Mr. MANN. I shall not object, although I doubt very much the propriety of printing any document by the Government in one form and then in another.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The address referred to is as follows:

Mr. HAMILTON of West Virginia said:

Mr. Chairman, at the outbreak of the Civil War the Commonwealth of Virginia was the fifth in population and wealth of all the States in the Union, and by far the most populous of those which had seceded therefrom. Five of her eminent citizens had held the presidential office, and their terms as such aggregated in length one-half of the time from the adoption of the Constitution to the outbreak of that great war.

On May 23, 1861, this great State, by an ordinance of her convention, adopted by her voters, seceded from the Union of States—that organization to the formation of which her illustrious statesmen had so materially contributed, in the most notable gathering for civic purposes which the world has ever known. Her greatest citizen—the world's greatest benefactor—had presided over the deliberations of this convention and for eight years had occupied the highest place of honor in the Government thereby ordained. Her people, with that of many of the other States, believed that the contracting powers which had formed the Union possessed the right to dissolve it whenever the necessity, in their opinion, might arise therefor.

It is idle at this time to comment upon the right, then believed by many to exist, of a State to separate itself from the Union. It is sufficient to say that there was then a division in sentiment upon that question throughout the whole country, and had it been submitted to an impartial jury of its ablest lawyers it is impossible to say what opinion would have been rendered by the tribunal.

From time to time as the world has made its onward march of progress great questions have arisen which no legal tribunal, however able, has been competent to decide, and in such cases a resort to force has been the only means by which the all-important question could be finally determined and set at rest. In consequence of this truth the people of Virginia and of the other seceding States are no more entitled to discredit for voting the several ordinances of secession than are those other persons who oftentimes are called upon to settle by their vote momentous issues and who register thereon their honest differences of opinion.

Upon the adoption of the ordinance by the convention, and before it was decided by the people, a counter movement was begun in those counties of Virginia lying on the west side of the Allegheny Mountains to avert, so far as possible, the effect upon them of the secession and keep that territory within the Union.

It will not be seriously contended at this day that, however patriotic the people behind this movement were, there was any warrant either in the Constitution of the Federal Union or that of the State of Virginia for the uprising which finally resulted in the division of the Commonwealth and the formation out of her territory of a new State.

I do not desire to be misunderstood in what I am now saying, nor as casting the least reflection upon the origin of that good State in which I have resided since its formation, and of which, or a part of which, I am an humble Representative in this Congress. When I say that West Virginia was not admitted to the Union by any warrant in the Constitution of the United States, but, on the contrary, as I believe, in direct opposition to one of its plainest mandates, I do not for a moment contend that in a broader sense and under a higher law it was illegally admitted.

There are certain laws of necessity which arise higher than written constitutions, and which are oftentimes invoked for inhabitants of territories placed in unusual circumstances. Constitutions are the handiwork of men, while these higher laws to which I have referred are made by no human power and arise wholly out of the needs and exigencies of the occasion which calls for their enforcement. It was through no written constitution that our forefathers of the thirteen British Colonies, in the latter part of the eighteenth century, of their own volition and in the power of their God, arose and cast off the yoke of a foreign government which oppressed them, and made free for the occupancy and enjoyment of those who might succeed them the most glorious country under the sun. No revolution, however beneficial may have been its object, has ever been effected by or through the provisions of a written constitution. West Virginia is not the child of the National Constitution, but is the offspring of that greater law of necessity before referred to, and her lineage from the god of war is as direct as was that of the sons of the vestal virgin who founded the ancient city on the Tiber, which for many centuries controlled the destinies of the world.

I have naught but praise for those eminent citizens then residing within the present boundaries of the new State, but now, alas, with but two or three exceptions gone to their reward, who had the foresight, the ability, and the courage to formulate and press forward to consummation the plans for the creation of the new State. They are entitled to more credit when it is considered that they had no written provisions to rely upon, but were compelled to resort to that higher rule of action which in the extremities of peoples have always guided their most eminent statesmen. From the days when Joshua established his followers on the eastern shore of the Mediterranean, where they became a renowned nation of antiquity, until the present, those who have succeeded in their efforts for the betterment of the conditions of their people have not only received, but have deserved, the plaudits of the historian.

I shall presently endeavor to show that the State of West Virginia was formed and admitted into the Union through the conviction of the necessity therefor and as an absolute military measure in time of war by those who were in a situation to know all the circumstances. If I can succeed in this, I have made proof of one proposition upon which the relief asked for in the pending resolution is partly predicated.

On January 1, 1861, the Commonwealth of Virginia was indebted to various creditors in the aggregate sum of about

$33,000,000, and the object of this resolution is to have the National Government assume that part of such debt which under ordinary circumstances would be equitably chargeable to the territory of West Virginia, and as to which the forced separation without the consent of Virginia injured and crippled that State in her means of payment. It can not be maintained that the effect of this resolution will be solely for the benefit of the bondholding creditors of Virginia or that it may give rise to fraudulent collusions relative to the debt, because it is safeguarded by a provision that no money whatever shall be paid thereunder except pursuant to the findings of the Supreme Court of the United States or upon such other settlement as shall be entirely satisfactory to Congress.

The debt was contracted for the purpose of making internal improvements within the State of Virginia; and at that time the counties now composing the new State were not populous; many of them were unsettled, and little if any of the money for which the debt arose was expended within that territory. So that it can be maintained that upon a truly equitable settlement of the accounts for improvement nothing would have been due from the new State to the old.

It is true that the Supreme Court of the United States, in a preliminary opinion in the cause pending before it, has held that the territory now comprising West Virginia should contribute to the payment of this debt; but this conclusion is reached because of the original unity of the two States and of the existence of such unity at the time of the creation of the debt, and is not based upon any theory that West Virginia, as a separate entity, ever agreed to discharge any part thereof; and it is expressly stated that the ordinances relative to the formation of the State of West Virginia, and the constitution afterwards adopted by its voters, have no weight in the determination of the question. It is treated as a quasi international matter, and the court declares that the rules relative to the settlement of international disputes are applicable thereto. It will be observed that the court, in the treatment of this case, can not inquire into the motives and reasons existing in the minds of the Congressmen and of the President upon the passage and approval of the bill for the admission of the State. They are political questions upon which the coordinate legislative and executive branches of the Government are conclusive upon the court.

To convince you, Mr. Chairman, that the formation of West Virginia was truly and essentially the result of a military necessity, existing at a time of actual war, it is only necessary to point out the circumstances existing at the time of the admission. These circumstances are evidenced by the country's written history, and particularly by the debates in Congress and the papers of the President and other executive officers contemporaneous with the fact.

It may be recalled that in the year 1862 the greatest civil war of ancient or modern times was raging in this Nation, and that the political horizon was dark and gloomy. Virginia, as I have said, was the most powerful of all the States engaged upon one side of the hostilities. She was furnishing the flower of her manhood for the cause which her convention and her people had decreed to be just and right. One of the greatest of America's generals, a native of that Commonwealth, had declined a commission at the head of the Union forces and, in obedience to the mandate of his State, was leading the armies of the South in apparent victorious opposition to the Union; and he had behind him an army as brave and valiant as any that has been described in history or song. The geographical lines of this great State were within gunshot of the room in the National Capitol in which you are now sitting. It will thus be seen that if Virginia could be weakened or crippled, a staggering blow would be inflicted upon the Confederacy itself.

Two bills for the admission of West Virginia as a State were pending in Congress. One introduced on June 25, 1862, by the Hon. William G. Brown, the father of the present Representative from the same territory. The other had been reported from the Committee on Territories in the Senate pursuant to a memorial presented to that body on May 28 by the Hon. Waitman T. Willy, a Senator residing within the borders of the proposed new State but accredited to the State of Virginia. The memorial was accompanied by a constitution adopted by certain citizens and voters residing within the territory proposed to be admitted. The House bill afterwards substituted for the Senate bill passed, as I shall show, and became the law for the admission. I can not take the time of this committee to detail at length all of the proceedings leading up to the presentation of these bills in Congress, although I deem it important that some of the main features be presented.

The ordinance of secession was adopted by the Virginia convention on April 17, 1861, and was to be voted upon by the people on the 23d day of May following. Upon the action of the convention, and, in fact, before that time, when it had become apparent what the action would be, various meetings were held in the counties west of the mountains for the purpose of opposing and creating sentiment in opposition to secession. The most important of these meetings, and the one which may be regarded as taking lead in the movement which resulted in the creation of the new State, was held in the town of Clarksburg, Harrison County, renowned as the birthplace of Stonewall Jackson and the home of your colleague, Mr. Davis. This meeting assembled after an informal notice of 48 hours, and the leading spirit thereof was John S. Carlile, who had been a member of the secession convention and was subsequently a Senator in Congress from what was called the restored government of Virginia. Mr. Carlile offered a resolution, which was adopted, in which it was recited that the State authorities of Virginia had placed the State in hostility to the Union and had inaugurated a war without consulting those for whom they professed to act and providing that the counties composing northwestern Virginia should appoint not less than five of their wisest and discreetest men to meet in convention on May 13 following to determine on such action as they should take in the emergency, and naming the delegation from the county of Harrison, with Mr. Carlile at its head. This mass meeting was held five days after the adoption by the convention of the ordinance of secession and more than one month before the time fixed for the popular vote thereon; and the convention which it called was to meet in the city of Wheeling 10 days before the time fixed for such vote. The convention met at Wheeling at the time designated, and was attended by many of the ablest men in that section of the State. The manner of their selection as delegates had not been defined, and they were selected in various ways—some by mass convention, some by municipal authorities, and in at least one case, that of the county of Wood, the second most populous county of the Territory, it was in some way adopted that every Union citizen of the county who should be in attendance at Wheeling should be a delegate to the convention.

I have mentioned these matters to show the chaotic condition as to the credentials of what is perhaps the most important gathering of men ever assembled in a political capacity within the territory of the State of West Virginia. They were men of undoubted ability and of great patriotism, having for their object the accomplishment of a worthy end; but I think it can be said that this convention, the initial step, as it may be called, in the formation of West Virginia, was not a body to be recognized as authoritative under any constitution, National or State. This convention was in session three days, during which time it provided for a second convention, to be held on June 11, following, in the event that the ordinance of secession should be adopted by the people on the intervening 23d of May. It resolved that in the event of such adoption the people of the counties represented should, on June 4, select delegates to the convention fixed for the 11th; that the senators and delegates who should be elected to the General Assembly of Virginia at the general election to be held on May 23, who concurred in the views of the convention should be entitled to seats in that body. This second convention met in the city of Wheeling on June 11, and there were in attendance some of the senators and delegates elected to the Virginia Assembly, together with many delegates who had been in some way appointed to the convention on June 4 in accordance with the resolution of the adjourned convention. It will thus be seen that even in this second convention there were no persons who had been duly elected in any manner provided for by law, to any representative capacity, except those elected to the Virginia Legislature, whose place of meeting was fixed by law at the city of Richmond. This second convention assembled under the authority of the first convention, which, in its turn, had met in pursuance of the mass meeting held at Clarksburg on April 22. It proceeded to declare vacant all the State offices of Virginia and to fill them by persons of their own selection, and to form a State organization, which was called the restored government of Virginia, with Francis H. Pierpont as governor. It ordained that on October 24, following, an election should be held to vote upon the question of a new State and to elect delegates to a convention to frame a constitution therefor.

James G. Blaine, in describing, in his "Twenty Years of Congress," the situation then prevailing in the territory, says:

> Notwithstanding the compliance with the outward forms and requirements; notwithstanding the recognition by Congress of the new government, it was seen to be essentially and really the government of West Virginia. It was only nominally and by construction the government of the State of Virginia. It did not represent the political power or the majority of the people of the entire State. The Senators and Representatives of Virginia were in the Confederate Congress. The strength of her people was in the Confederate Army, of which a dis-

tinguished Virginian was the commander. The situation was anomalous, though the friends of the Union justified the irregularity of recognizing the framework of the government in the hands of loyal men as the actual civil administration of the State of Virginia.

It was this organization that gave its consent to the creation of the State of West Virginia out of the territory of Virginia, and this is the only effort made to comply with that provision of the National Constitution which forbids Congress to create one State within the territory of another without the latter's consent.

The constitutional convention afterwards met and made a constitution and submitted it to a vote of the people, and the vote was taken on April 3, 1862, and there were cast in favor of the constitution 18,862 votes, and against it, 514. It seems to have been conceded by debates in Congress that this was less than half of the voting strength even of the territory seeking to be admitted, to say nothing of all that more populous portion of the State lying east of the mountains, which, of course, did not participate in any of the proceedings.

The measure for admission was ably debated in both branches of Congress by many statesmen. It was opposed in the Senate by Messrs. Sumner, of Massachusetts; Trumbull, of Illinois; Bayard and Saulsbury, of Delaware; Cowan, of Ohio; Powell, of Kentucky, and many others who were regarded as Senate leaders at that time. The bill passed the Senate on July 14 by a vote of 23 to 17. To show that the most eminent statesmen are not, in situations of excitement, altogether substantial in their views, the fact is pointed out that John S. Carlile, the very man at whose instance the Clarksburg convention was called and on whose motion the first Wheeling convention assembled and who was most clamorous for proceedings to form a new State, upon the final passage of the bill voted in the negative; while his colleague, Mr. Willey, who was a member of the first Wheeling convention, and therein cautioned deliberation and carefulness, and on one occasion characterized the extreme views of Carlile as treasonable, became its staunchest advocate.

When the bill came up for consideration in the House it was opposed and declared to be unconstitutional by many of the ablest Representatives, among whom were Mr. Conway, of Kansas; Mr. Crittenden, of Kentucky; Mr. Dawes, of Massachusetts; and Roscoe Conkling, of New York. Thaddeus Stevens, at that time the chairman of the Ways and Means Committee and the majority leader on the floor of the House, and with authority almost dictatorial, supported the bill, and I desire to quote a part of what he said:

I have had great difficulty in determining how I should vote upon this measure as a question of policy, and I can hardly say that I have yet made up my mind; but, as at present advised, I shall vote for the admission of the State, and desire to state my grounds for so doing. I do not desire to be understood as being deluded by the idea that we are admitting this State in pursuance of any provision of the Constitution. I find no such provision which justifies it. * * * By the Constitution a State may be divided by consent of the legislature thereof and by the consent of Congress. Now, sir, it is but mockery, in my judgment, to tell me that the Legislature of Virginia has ever consented to this division. There are 200,000 out of 1,250,000 of people who have participated in this proceeding. * * *

Before all this was done the State had a regular organization, a constitution under which that corporation acted. By a convention of a large majority of the people they changed their constitution and changed their relations to the Federal Government from that of one of its members to that of secession against it. Now, then, how has that State ever given its consent to this division? A highly respectable but very small number of the citizens of the State of Virginia—the people of West Virginia—assembled together, disapproved of the acts of the State of Virginia, and with the utmost self-complacency called themselves Virginia. Now, is it not ridiculous? Is not the very statement of the fact a very ludicrous thing to look upon? * * *

The State of Virginia therefore has never given its consent to the separation of the State. I desire to see it (the separation); and, according to my principles, I can vote for its admission without any compunctions of conscience. * * * But, sir, I understand that these proceedings take place not under any pretense of constitutional right but in virtue of the laws of war; and by the laws of nations these laws are what we choose to make them, so that they are not inconsistent with the laws of humanity. I say, then, that we may admit West Virginia not by virtue of any provision of the Constitution but under our absolute power which the laws of war give us in the circumstances in which we are placed. I shall vote for this bill upon that theory, and that alone, for I will not stultify myself by supposing that we have any warrant in the Constitution for this proceeding.

This argument of the great leader had the effect to put the bill through the House, and it passed that body on December 10, 1862, by a vote of 96 to 55.

Everything shows that President Lincoln had grave and serious doubts as to what course he should take in the premises. He called upon six members of his Cabinet for their written opinions. Three of them advised that the bill was clearly unconstitutional; among these was the Attorney General, an able and eminent lawyer. He advised that the act was not warranted by the Constitution, stating that the legislature which gave consent to the dismemberment of the State of Virginia, being composed chiefly, if not entirely, of the persons representing the counties desiring to be admitted, was not a legislature competent to give consent on behalf of Virginia, and that on account of its intrinsic demerits and its revolutionary character the act in question was highly inexpedient and improper.

President Lincoln was placed in a position of responsibility which had, perhaps, never confronted any man under a constitutional government. He was compelled by the very exigencies of the perilous situation to resort to that higher law of self-protection, which, under the laws of war, have always been inherent in every sovereignty in time of danger. As Chief Executive of the Nation, in time of peril he had the right to resort to anything not inconsistent with the laws of humanity which would tend to the salvation and stability of the Government. When the preservation of the Government, and not the interpretation of its internal rules of action, is the supreme question, and war prevails, the laws of war render nugatory all written constitutions. Mr. Lincoln, rising above the ordinary interpretation of the Constitution prevailing in time of peace, availed himself of this great law of necessity. He accepted the responsibility and acted in that way which his forceful mind conceived to be for the best interests of the Nation.

In the autumn and winter of 1862 Abraham Lincoln occupied upon this planet a place of responsibility never equaled in all the annals of history, and almost every official act of his was pregnant with this responsibility. Two years before he had been elected to the Presidency at an election when considerably more than half of the popular vote had been cast against him. He had assumed his duties when it was plain that he would have to conduct the Nation either successfully or unsuccessfully through the greatest civil conflict which the world has known.

In the fall of 1862, at the national congressional elections, the great States of New York, Pennsylvania, Ohio, and Illinois returned delegations to the House which were supposed to be in opposition to his policies. He had been publicly criticized in an impatient and unjust manner by Horace Greeley, the great advocate for the abolition of slavery. He had been called upon by a delegation of eminent ministers of the gospel, who had urged upon him the emancipation of the slaves, and to whom he had been compelled to reply that such a proclamation would be useless when all the armies under his control could not enforce it on the opposite shore of the Potomac River from his Capital. He had written to Mr. Greeley, in substance, that slavery was not the supreme question of the hour, but that the salvation of the country was that question. That he would be willing to emancipate every slave if it would save the Union, or would be willing to save the Union without the emancipation of a single slave; and that what he should do, or refrain from doing, about slavery would be according to the effect which such action or nonaction would have upon the salvation of the Union. He saw the advancing army of Lee almost at the National Capital, and, with the exception of one or two battles in the West, nearly every prominent engagement of the war had resulted in advantage to the South. With a valiant enemy to his front and carping critics at his back the low-water mark of the Union had been reached, and he was sorrowful, gloomy, and despondent. But nevertheless, under all his adverse surroundings he was glorious and grand; and, with all reverence, his position was not altogether dissimilar to that of the Divine Man of Sorrow who, 18 centuries before in his Father's temple, had bowed his head in grief and uttered the words, "Oh! Jerusalem, Jerusalem."

It is said that in his Egyptian campaign Napoleon called the attention of his soldiers to the Great Pyramid and inspired them by the declaration that 40 centuries of history looked down upon them from its summit. At the time of which I am speaking Mr. Lincoln, at the head of the American Nation, was as firm and unshaken as that ancient monument. He looked into the future and he saw that in all succeeding time he would be held responsible for a mistake or given praise and credit for the proper action.

On the 17th day of September the southern forces had been, for the time being, checked by the Battle of Antietam, and this gave him the opportunity to declare and put into effect certain policies which he had been anxious to adopt. One of these was his border State policy, by which he endeavored to get a chain of friendly slave-holding territory between the North and the actual seat of conflict. West Virginia was a part of the territory with which he desired to complete that chain, and, after serious reflection, he decided that he would approve the bill for its admission. And to evidence the fact that he regarded his action as a war measure, I call attention that in a written opinion filed by him he said:

We can scarcely dispense with the aid of West Virginia in this struggle, much less can we afford to have her against us in Congress and in the field. Her brave and good men regard her admission into the Union as a matter of life and death. They have been true to the Union

under very severe trials. * * * The division of the State is dreaded as a precedent, but a measure made expedient by war is no precedent in time of peace. I believe that the admission of West Virginia is expedient.

He had determined to divide Virginia, that the Nation might remain undivided; and as another potent circumstance in evidence that he acted from military necessity, I call attention to the fact that within a few hours of his approval of the West Virginia bill, on the last day of December, 1862, he, on January 1, 1863, issued the final proclamation for the emancipation of the slaves of the several States in secession.

The merest glance, Mr. Chairman, at the situation then prevailing will indicate the wisdom of the President in his views that it was expedient to admit the State of West Virginia. By the acquirement of that territory there was placed between the Northern States and the southern army 25,000 square miles of land, mountainous in its character and embracing, among other chains, the great Appalachian Range, extending from the line of Pennsylvania to the eastern line of Kentucky, and from thence by way of the quasi neutral or friendly territory of Kentucky to the northern boundary of Tennessee. Within the territory so stricken from the mother State was the Baltimore & Ohio Railroad, the greatest trunk line at that time in the country. Within that territory it extended from Harpers Ferry westward to the city of Grafton, and there divided into two branches, one extending southwestward with its terminus at St. Louis and the other northwestward to Chicago, with more than 400 miles in the territory of the new State. It also afforded to the National Government, as within Federal lines, access to the channel of the Ohio River from a point north of Pittsburgh to the mouth of the Big Sandy River, which constitutes the eastern boundary of Kentucky, and, by reason of the attitude of Kentucky, giving an open highway to the Mississippi River—in all, a distance of about 1,000 miles. This railroad and this river were of incalculable benefit to the Government in the transportation of troops and munitions of war, and for a military advantage like this Cæsar or Napoleon would have sacrificed a hundred thousand men and would have paid a mint of coin.

In my endeavor to show that the territory of West Virginia was acquired as a war measure, I may have been somewhat tedious; but I have thought it necessary to do this that the resolution which I am discussing might be placed within a line of precedents which I believe to be controlling on its consideration.

I need not remind this committee of judges and able lawyers of the force of governmental precedents. Long before the time when the Persian King, unable to sleep, at midnight arose to search throughout his chronicles for precedents, and from that day till the present the only law governing a sovereignty on any question has been that which has grown out of its own actions upon similar questions in former times. Indeed, the bulk of all rules of civil action depends upon precedents, and the great unwritten common law is but the application of what has been before done under given statements of fact.

It will be observed, as I proceed, that the United States has upon various occasions, both in time of war and peace, found it expedient to acquire from foreign countries, and in some instances from States of the Union, certain territories, and except as to the notable instance of the acquirement from Virginia of the Northwest Territory, to which I shall hereafter allude, no single instance exists in which they did not pay a just and adequate compensation therefor, and in nearly, if not quite, all of the occasions, in addition to the payment of large money considerations directly made, the Government has assumed the payment of unsettled, undefined, and unliquidated debts which were chargeable against the territory so acquired.

After the annexation in 1845 of Texas to the United States a war arose between this Nation and Mexico because the latter Government was endeavoring to reacquire Texas when its independence had long before been acknowledged by the United States, and such independence made perpetual by the admission of its territory into the Union as a separate State. This state of war was terminated in 1848 by the treaty of Guadalupe-Hidalgo. During the progress of the war the soldiers of the Union had made full conquest of the Republic of Mexico and our flag was flying and our troops were quartered in the capital city of that country. By every law of nations and of war her whole territory belonged to the United States Government and there rested upon it no legal duty to make compensation for any part thereof. But nevertheless the treaty to which I have referred released and reinvested Mexico with title to all that portion of her original territory lying to the southwest of the Rio Grande, and in addition thereto provided that the Government should pay to her the sum of $15,000,000 for that part of the conquered territory lying to the north of the river and west of the line of Texas. Besides the payment of that vast sum of money by the said treaty, this Government undertook to pay large sums for certain existing debts of Mexico, some of which had been then determined and some were yet to be determined, and wholly exonerated that Republic from all liabilities therefor. Mr. Blaine in his work says that these debts amount to about $4,000,000, but in May last the Secretary of the Treasury informed me by letter that the actual amount paid and assumed to be paid at that time amounted to $5,340,253.16.

Five years after the adoption of the treaty of Guadalupe-Hidalgo this Government, under the Gadsden treaty, purchased a small strip of the land which it so generously surrendered to Mexico and paid therefor the magnificent sum of $10,000,000.

A half century later this country again engaged in foreign war; this time with the Spanish Government because of its tyrannical and inhuman treatment of our neighboring island of Cuba. This war was short, but yet long enough for our Army and Navy forces to take complete possession by conquest and subjugation of the island of Porto Rico and the Philippine Archipelago.

We held these possessions by the right of war with a title which would have been recognized and acknowledged by every civilized nation of the world. Yet following the humane plan formerly adopted in regard to Mexico, this Government, by its treaty, made full compensation to Spain for the territory of which she had been deprived. We paid her $20,000,000 in cash, and in addition thereto, by one clause of the treaty, the Government assumed and agreed to pay every debt, public or private, which any or all of the citizens of this country might have against the Government of Spain, and Spain was entirely absolved therefrom.

Under date of the 9th of this month, the Secretary of the Treasury has advised me that under this clause of the treaty debts aggregating $1,387,845.74 have been allowed and paid from appropriations made by Congress.

Prior to the year 1802 this Government had been in a dispute with the State of Georgia relative to the territory then claimed by Georgia and now constituting the States of Alabama and Mississippi. It was claimed by the National Government that the title of Georgia only extended to her present western limits and that the lands between those limits and the Mississippi River were held by the Government under the peace treaty of 1783 with England. The Government had organized the Territory of Mississippi, which originally covered the State of Alabama. Georgia, out of this disputed land, had made grants to various companies and organizations in the valley of the Yazoo River, within the present State of Mississippi, covering about 36,000,000 acres. To end the dispute, Georgia finally released all claim west of her present limits, and the Government made payment to her by way of cash and scrip, to make good the Yazoo grants, the sum of $6,200,000, and, in addition thereto, granted to the State a strip of land, 12 miles wide, extending all along its northern boundary, which had been acquired by the Government from South Carolina.

It will be observed that in this settlement the Government undertook to make good the apparent obligations resting upon the territory so taken in relation to the unauthorized grants theretofore made by the State of Georgia, and, indeed, in every instance where the Government has acquired territory it has in some manner or other assumed various debts and obligations theretofore resting upon the territory.

When Texas was admitted to the Union her western border was ill-defined, and thereafter a serious dispute arose between her and the Government as to the title to certain territory lying to the east of the Rio Grande River and west of the present western line of Texas. Texas claimed this territory as having belonged to her when she was a Republic. The United States claimed it by reason of her conquest of Mexico, and, in truth, the Government at the time, through its commanding general, Stephen W. Kearney, had the possession thereof. In the year 1850, in the Thirty-first Congress, composed of the very ablest men of the day, the Whig leader, Henry Clay, at that time about to close his public career, offered in the Senate for consideration certain measures bearing upon the slavery and other questions, which are known as the omnibus compromise of 1850. One object was the organization of New Mexico as a free-soil Territory, and in the boundaries thereof was included the territory in dispute with Texas. As a part of the general compromise it was enacted that the sum of $10,000,000 should be paid to Texas for the territory of which she was about to be deprived, and on September 9 an act was passed organizing the new Territory and including therein the disputed portion.

It may not be improper to call attention, while passing, to the fact that in both the cases of Georgia and of Texas the terri-

tory taken by the Government was in dispute, with the probabilities very strong that the Government was the true owner. In the case of Virginia and West Virginia there can not be the slightest doubt as to title, for Virginia had held the land without the shadow of dispute since long before the organization of the National Government.

The bill for the compensation of Texas provided that $5,000,000 of the purchase money should be held until the release of certain debts against the State, but on February 28, 1855, the Government by a supplemental bill, after it had in fact paid $8,500,000 on account of the compromise, appropriated the additional sum of $7,500,000 for the benefit of the creditors; and it thus appears that that part of the present State of New Mexico involved in the dispute with Texas has cost this Government $16,000,000.

The debate in the Senate in reference to these compromise measures of 1850 is perhaps the most notable discussion which had occurred therein since the foundation of the Republic, and was participated in by a greater number of its eminent statesmen. The speech made by Henry Clay upon that occasion is the last notable public expression of the views held by him upon important questions, and he died two years later. John C. Calhoun, the great leader of southern thought, arose in his place, for the last time, to speak upon this question. He was so feeble that he could not finish and handed his manuscript to his long-time friend and comrade, James M. Mason, of Virginia, who read it for him. He left the Chamber and but a few days thereafter his death was announced to the Senate. It was upon this bill that Daniel Webster, on March 7, 1850, made his great speech, which, by reason of certain expressions therein relative to the question of slavery, ostracized him from friends in the North and rendered his nomination for the Presidency two years later impossible. Many other prominent Senators spoke upon this question, including Thomas H. Benton, who subsequently became the historian of the debate. There was a difference of opinion between these men on many of the questions involved in the discussion, but there was not in the whole debate the slightest expression of opposition against the payment to the State of Texas of the amount designated for the territory of which it was supposed she was about to be deprived.

It seems to me, Mr. Chairman, that the opinions and uttered declarations of the great men of our country may well be taken as authority on the policy of the Nation on similar questions when they arise; and I refer to them as constituting strong argument for the position which I assume upon this resolution. There have been, and still are, other great men in this country whose views are instructive at this time. A short time ago, in a discourse in the House of Representatives upon another subject, I took occasion to refer to three distinguished men who have occupied high stations in the minds of the people of this country. If you will allow me, I will quote what I then said:

> This country has produced three men the coincidences in whose lives are so striking as to indicate that they are not the result of chance. Each of them has been thrice defeated for the highest office within the gift of the people; two of them upon three occasions by the people at large, and the other twice in the conventions of his party and once by the electors at the polls. One of these men, Henry Clay, was the leading man in his country's history during the first half of the nineteenth century, and he has been described as the leading English-speaking statesman of his period. Another, James G. Blaine, led the advance guards of his party when it had supreme control, from the close of the Civil War to the latter decade of the nineteenth century, and his voice was powerful and potent in forming the constructive policies of the Nation. The third, William Jennings Bryan, has for 15 years or more formulated the policies and the leading principles of the great militant Democratic Party and still is its acknowledged leader. Not only is this true, but there is indissolubly connected with his great name many principles of right and justice which have been engrafted upon the public policy of the country by the assistance of the very men who defeated him for office while they were opposing such principles. Clay was a Whig, Blaine a Republican, and Bryan a Democrat. So that the three great parties who have at different times controlled the destiny of the Nation are each represented in the illustrious trio. We are told that the joint lives of three great patriarchs—Adam, Methuselah, and Noah—made a continuous line from the creation of the world to its destruction by the Deluge, and that they carried down in their memories until the time that letters were discovered the antediluvian traditions and histories of our planet.
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> As a parallel to this I point out the fact that Henry Clay was born 12 years before the adoption of the American Constitution. He died in June, 1852, 22 years after the birth of James G. Blaine, in 1830. Mr. Blaine died in January, 1893, when William Jennings Bryan, born in 1860, was 33 years old. Bryan still lives, and it is the hope of every good citizen of this land that he may long continue in his upright and useful career. It will appear that the joint lives of these three men extend from a period antedating the formation of this Government by 12 years down to the present day, and these three illustrious men could have easily handed down by word of mouth, without change of verbiage, the Constitution of the country, though it had never been reduced to writing. No man reviles the memory of Henry Clay or casts reproach upon the brilliant genius of James G. Blaine, and the time will come when the third parallel, William Jennings Bryan, upon the consideration of the great deeds which he has accomplished for the benefit of man, will be spoken of only in the highest terms of praise and honor.

Mr. Chairman, I can show that each of these three men is committed to the policy of this resolution. I have already shown that Mr. Clay, by his compromise measures of 1850, advocated almost the identical measure you are now considering. The difference in the two propositions is this: In the Texas matter the object was to compromise and settle for the time being a question bearing merely upon a governmental policy of the country. In the case of the division of Virginia and the organization of West Virginia the object was the salvation of the Nation, and at a time when it was feared the very life of the Government was at stake.

That Mr. Bryan is committed to the substance of this resolution is shown by his conduct at the time when the Spanish treaty stood in imminent danger in the Senate, when by his influence with the minority members of that body he prevailed upon them to vote for ratification.

In the case of Mr. Blaine it is not necessary to rely upon a comparison of measures. His forceful pen has left on record his opinion upon the identical thing involved before you. Because of his great intellect, deep research, and actual knowledge of all the matters pertaining to the civil strife between the States he was in every way competent to express an opinion and make an argument upon the subject.

I call your attention to what he has written in his great history:

> To the old State of Virginia the blow (the separation) was a heavy one. In the years following the war it added seriously to her financial embarrassment, and has in many ways obstructed her prosperity. As a punitive measure for the chastening of Virginia it can not be defended. Assuredly there was no ground for distressing Virginia by penal enactments that did not apply equally to every other State of the Confederacy. Common justice revolts at the selection of 1 man for punishment from 11 who have been guilty of the same offense. If punishment had been designed, there was equal reason for stripping Texas of her vast domain, and for withdrawing the numerous land grants which had been generously made by the National Government to many States in rebellion. But Texas was allowed to emerge from the contest without the forfeiture of an acre, and Congress, so far from withdrawing the lands by which other Southern States would be enriched, took pains to renew them in the years succeeding the war. The autonomy of Virginia alone was disturbed. Upon Virginia alone fell the penalty which if due to any was due to all. * * *
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> Virginia owed a large debt held in great part by loyal citizens of the North and by subjects of foreign countries. The burden was already as heavy as she could bear in her entirety, and dismemberment so crippled her that she could not meet her obligations. The United States might well have relieved Virginia and have done justice to her creditors by making some allowance for the division of her territory. Regarding her as only entitled to the rights of a public enemy so long as she warred upon the Union, we may confidently maintain that she is entitled at least to as just and as magnanimous treatment as the National Government extends to a foreign foe. In our War with Mexico it became our interest to acquire a large part of the territory owned by that Republic. We had conquered her armies, and were in possession of her capital. She was helpless in our hands. But the high sense of justice which has always distinguished the United States in her public policies would not permit the despoilment of Mexico. We negotiated, therefore, for the territory needed, and paid for it a larger price than would have been given by any other nation in the world.
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> The American Government went still further. Many of our citizens held large claims against Mexico and the failure to pay them had been one of the causes that precipitated hostilities. Our Government, in addition to the money consideration of $15,000,000 which we paid for territory, agreed to exonerate Mexico from all demands of our citizens and to pay them out of our own Treasury. This supplementary agreement was nearly $4,000,000.
>
> If the United States were willing to place Virginia on the basis which they magnanimously placed Mexico after the conquest of that Government, a sufficient allowance should be made to her to compensate at least for the part of her public debt which presumptively was represented by the territory taken from her. If it be said in answer to such suggestion that it would be fair for West Virginia to assume the proportional obligation thus indicated, the prompt rejoinder is that, in equity, her people are not held to such obligation. The public improvement for which the debt was in large part incurred had not been in so far completed as to benefit West Virginia when the Civil War began, their advantages being mainly confined to the tidewater and piedmont sections of the State. There is indeed neither moral nor legal responsibility resting on West Virginia for any part of the debt of the old State.
>
> In determining the relative obligations of the Government and of the government of West Virginia concerning the debt, it is of the first importance to remember that the new State was not primarily organized and admitted to the Union for the benefit of her own people, but in a far larger degree for the benefit of the people of the whole Union. The organic law would not have been strained, legal fictions would not have been invented, if a great national interest had not demanded the creation of West Virginia. If it had not been apparent that the organization of West Virginia was an advantage to the loyal cause; if the border-State policy of Mr. Lincoln, so rigidly adhered to throughout the contest, had not required this link for the completion of the chain, the wishes of the people most directly involved would have never had the slightest attention from the Congress of the United States. * * *
>
> Nor should it be forgotten that the State of Virginia before the war might well be regarded as the creditor and not as the debtor of the National Government. One of her earliest acts of patriotism as an independent State was the cession to the Government of her superb domain on the north side of the Ohio River, from the sale of which more than $100,000,000 have been paid into the National Treasury. * * * In the formal and necessarily austere administration of public affairs there is little room for the interposition of sentiment. Yet sentiment has its place. We stimulate the ardor of patriotism by the mere display of a flag which has no material force, but which is emblematic of all material force and typifies the glorious Nation. We

stir the ambition of the living by rearing costly monuments to the heroic dead. It may surely be pardoned if Americans shall feel a deep personal interest in the good name and fortune of a State so closely identified with the early renown of the Republic—a State in whose soil is mingled the dust of those to whom all States and all generations are debtors—the Father of his Country, the author of the Declaration of Independence, and the chief projector of the National Constitution.

Mr. Blaine, in the extract which I have read, alludes to the cession by Virginia of the northwestern territory, and it may not be improper to refer a little further to that subject. On March 1, 1784, the State of Virginia ceded to the National Government, then represented by an unstable and imperfect Union under the Articles of Confederation, that vast scope of country lying to the west and north of the Ohio River and between that river and the Great Lakes on the north and the Mississippi on the west. This cession was made without the payment of a single dollar from the Treasury of the United States, and at a time when the Federal Union was crushed with poverty and debt, and its paper issued to pay her soldiers in the Revolutionary War was purchasable at the merest trifle.

Within a year after the adoption of the Constitution the Secretary of the Treasury submitted to Congress a plan for the sale of all of these lands, which was adopted by Congress, and under it the disposition of the lands was inaugurated, and money began to flow into the Treasury, and from that time to the present the international credit of the United States has stood the highest in the world.

In stating that Virginia made this cession I do not ignore the fact that about the same time grants were made by other States of certain undefined claims held by them in the same territory. But I think I am authorized in the statement that the true ownership of the territory lay in Virginia. She had title extending as far back as the year 1609 of "the whole seacoast north and south, within 200 miles of Old Point Comfort, extending from sea to sea, west and northwest"; but what is still more conclusive she had, prior to her cession, reduced it to possession, and then held the same by an armed force under her great pioneer general, George Rogers Clark. The cessions made by New York, Connecticut, and two or three other States were only of claims, and were made for the purpose of quieting rather than creating title. I may say, however, that Connecticut, true to the reputation of her founders for enterprise and thrift, in her cession made a reservation of a large tract in Ohio, which seems to have ripened to such an extent that Ohio purchased the same from her. It is perhaps the only instance on record where title to real estate ensued from a reservation in a grant.

This territory now comprises the States of Ohio, Indiana, Illinois, Wisconsin, Michigan, and about 26,000 square miles, or one-third of Minnesota.

It is worthy of note at this time that the ordinance reported to the Continental Congress for the government of the Northwest Territory by a committee of which Thomas Jefferson was the chairman provided that "after the year 1800 of the Christian era there shall be neither slavery nor involuntary servitude in any of the said States—to be formed out of that territory—otherwise than in punishment of crime whereof the party shall be duly convicted to have been personally guilty." The language proposed by Mr. Jefferson relative to slavery is almost identical with that contained in the antislavery amendment to the Constitution adopted at the close of the Civil War.

About the same time as the cession of the Northwest Territory Virginia also ceded for beneficial national purposes without compensation all that territory lying on the south of the Ohio River extending from the mouth of the Big Sandy to the Mississippi, now constituting the State of Kentucky, so that it may be said that the title to all land in States bounding upon the great Ohio River is held either immediately or remotely under the former ownership of the Commonwealth of Virginia.

Certainly when Virginia made these cessions they carried with them all the future potentiality of the territory, and therefore I think I am warranted in saying that these gifts constitute the grandest cession without compensation ever made by one sovereignty to another. As you have heard, Mr. Blaine says that more than $100,000,000 have come into the Treasury of the United States from sales of land in the Northwest Territory. I have found it impossible to get the exact amount, as there seems to be no account in the Treasury Department fully covering it, but by calculation made from certain figures in the last report of the Commissioner of the General Land Office I estimate the amount at about $138,000,000. At a low rate of interest it will be seen that these sales have benefited the Government more than $500,000,000.

Let us look at it in another way. This Government has paid for the purchase of Louisiana, including interest and debts assumed, the sum of $27,267,621.98; for the purchase of east and west Florida, $6,489,768; for the cession from Mexico under the treaty of 1848, $15,000,000; for the Mexican purchase under Gadsden treaty, $10,000,000; for adjustment of dispute between Texas and the Government, $16,000,000; for the purchase of Alaska from Russia, $7,200,000; for the settlement of dispute between Georgia and the Government, $6,200,000; for the Philippine Archipelago and Porto Rico under Spanish treaty, $20,000,000; for the purchase of the Panama Canal Zone, $10,000,000. These territories represent all which have been purchased or acquired by the Government, either from foreign countries or inland States, except the District of Columbia and the Northwest Territory, and the aggregate of the several amounts named is $113,000,000. From these figures it is apparent that with the exception of the original colonies and some three or four States which have been carved therefrom, the State of Virginia, by her cession of the Northwest Territory, has furnished to the Government, directly or indirectly, every acre of its inland territory, its islands of the sea, and every other kind or character of real estate of which it is the owner or over which it has sovereignty, and there still would remain to the moral credit of Virginia in the Treasury of the United States $25,000,000, counting principal only. Virginia has been called the mother of Presidents, and the facts and figures which I have attempted to give indicate that she is likewise entitled to be called the mother of Territories and States. More than two-thirds of the inland States of this Union and all of its foreign territory have been virtually contributed by her.

Just a little more about Kentucky and the States of the Northwest Territory. The total internal revenue of the Nation for the year ended June 30, 1910, was $289,000,000, of which $148,000,000, or more than one-half, was paid by these States. The total production of corn in 1910 was 3,126,000,000 bushels, more than 1,000,000,000, or about one-third, of which was produced in the States referred to, and their production constituted considerably more than one-fourth of all the corn crop of the world. In the same year they produced one-fifth of all the wheat, one-half of all the oats, more than one-fifth of all the barley, between one-third and one-half of all the rye, one-third of all the potatoes, one-fourth of all the hay, six-tenths of all the tobacco produced in the continental territory of the United States. They have nearly one-fourth of the total population of the Nation and the three largest cities within the territory have a larger population than the Nation had at its organization. They have one-fourth of all the railroads and public-service corporations. They own about the same of all the gold and silver coin and bullion. The value of their real estate is $16,000,000,000, in a total of $62,000,000,000. They own about the same proportion in all the live stock and farm implements and machinery, and manufacturing machinery and tool implements. They also have one-fourth or more of all that wealth unclassified in the census records.

With the exception of two incumbents, every President of the United States elected since 1860 has come from this territory, and when the ones so excepted were in office the Vice Presidents were from these States, and from the year 1869 to 1873 they furnished both the President and Vice President. The three great men who suffered martyrdom while at the head of the Nation—Lincoln, Garfield, and McKinley—all lie buried in this territory. The two living ex-Vice Presidents, as well as the two ex-Speakers of the House of Representatives, live in this territory, and it has furnished the Chief Justice of the Supreme Court of the United States since the death of Roger B. Taney, in 1864, until within a few months past, when the present incumbent was selected. Of the 112 sessions of Congress held during the last century, 48 were presided over by Speakers from these States; Henry Clay in different Congresses has presided over 13 sessions, while Joseph G. Cannon has presided over 10. This territory furnished both these men, Mr. Clay having the longest noncontinuous service and Mr. Cannon the longest continuous service of any who have held that great office. The minority leader of the House of Representatives is a Representative from one of these States, while both the majority leader and the Speaker were born in another of them. These States have 105 Members of the Congress of the United States as constituted at the beginning of this Congress.

I call attention to these figures, Mr. Chairman, merely to show the magnificence of that great gift which Virginia, in her ancient ascendancy, when rich, made to our common country in the time of its necessity and poverty.

I ask you, sir, when all these facts are considered, is it just and equitable that Mexico and Spain be compensated for territories taken from them, while Virginia, whose generosity I have pointed out, shall remain unrecompensed? Is it right to pay $16,000,000 to Texas and $6,000,000 to Georgia for lands of doubtful title, and to allow Virginia to be deprived of a valuable part of her territory without the shadow of recom-

pense? Neither Mexico, Spain, Georgia, Texas, nor any other State or nation has ever contributed one single acre to this Government without adequate compensation and without provision being made for a large part of their outstanding obligations. Even in the purchase of Louisiana from France, this country, in addition to the money consideration, agreed to pay the obligations of the foreign country to all the citizens of this country for the spoliation of their ships and cargoes, and of these French spoliation claims large numbers have been allowed. Every appropriation which Congress has made in payment for property taken or destroyed in war—and such appropriations have been many—afford a precedent for the action we are asking.

It is true that this State of Virginia for four years was in rebellion against the Government. So was Texas, so was Georgia, and so was your own fair State. But, save the loss by Texas, Georgia, Alabama, and the other Southern States, of the valorous sons who fell in action and now sleep in soldiers' graves upon their sunny slopes and beside their summer waters, these great States sustained no permanent loss by the Civil War.

If it is claimed that this resolution is not for the benefit of Virginia, but of West Virginia only, I will answer that the debt to which it refers is the debt of the mother Commonwealth. As I have read from Mr. Blaine, no part of the money which it represents was spent for the benefit of West Virginia, and I further say that the honor of Virginia is involved as well as that of West Virginia, and if the great cession of the Northwest Territory is in any way to be considered, either in its legal aspect or as a cause for national gratitude and justice, then it is of the utmost importance to remember that when that gift was made Virginia and West Virginia were one.

Mr. Chairman, the Civil War has long been over, and between these two States all vestige of contention, strife, and hatred engendered by the Civil War is gone. The brother and the brother have been reconciled. Still this debt remains and is the subject of litigation and contention, not only in the courts but among the people. It is the only continual reminder of the Civil War; and it is to be hoped that this great Nation, in the exercise of that generosity which has prevailed in all its former dealings with public questions and of that justice which is evidenced by its unbroken line of precedents, will take such action relative to this matter as will render completely tranquil the civil relations between this glorious mother and the daughter of her sore travail.

SPEAKER PRO TEMPORE AT SUNDAY SESSION.

The SPEAKER. The Chair designates Mr. HUGHES of New Jersey to preside over the session of the House to-morrow, at the memorial service to Mr. LOUDENSLAGER.

RULE FOR LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. HENRY of Texas. Mr. Speaker, I submit the following privileged resolution from the Committee on Rules.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 521.

Resolved, That in the consideration of the bill (H. R. 24023) making appropriations for the legislative, executive, and judicial expenses of the Government, and for other purposes, in the Committee of the Whole House on the state of the Union, it shall be in order to consider without intervention of a point of order any section of the bill as reported, and an amendment authorized by the Committee on Appropriations as a committee amendment to read as follows: "Hereafter the administrative examination of all public accounts, preliminary to their audit by the accounting officers of the Treasury, shall be made as contemplated by the so-called Dockery Act, approved July 31, 1894, and all vouchers and pay rolls shall be prepared and examined by and through the administrative heads of divisions and bureaus in the executive departments and not by the disbursing clerks of said departments, except that the disbursing officers shall make only such examination of all vouchers as may be necessary to ascertain whether they represent legal claims against the United States."

Mr. LENROOT. Mr. Speaker, I make the point of order against the consideration of this resolution at this time because that resolution has never been before the Committee on Rules. I have not seen a copy of it as a member of that committee.

Mr. HENRY of Texas. Mr. Speaker, I will state that I saw nearly every member of the Committee on Rules, I think 9 out of 11, on yesterday, and the majority agreed to report the resolution. It is a fact that that committee did not actually assemble in the committee room, but they were on the floor of the House. I hunted for the gentleman from Wisconsin but was unable to find him.

Mr. MANN. Mr. Speaker, I make the point of order that no such resolution has ever been introduced and referred to the Committee on Rules, and hence they could not act upon it.

Mr. HENRY of Texas. The gentleman is mistaken about that.

Mr. FITZGERALD. I introduced the resolution yesterday.

Mr. MANN. This resolution has not been referred and reported back.

Mr. HENRY of Texas. It was introduced and referred there. Of course if the gentleman desires——

Mr. MANN. This resolution has not been introduced.

Mr. HENRY of Texas (continuing). If the gentleman desires to be so highly technical, the chairman of the Committee on Rules will call a meeting of that committee at once, and the resolution will be acted upon, I apprehend, and will be reported out.

Mr. MANN. That is all right.

Mr. HENRY of Texas. Mr. Speaker, I withdraw the resolution.

MINORITY VIEWS ON HOUSE JOINT RESOLUTION 278.

Mr. OLMSTED. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. OLMSTED. I would like to inquire whether there has been any variation of the rule under which the majority and minority reports presented together from a committee are printed together?

The SPEAKER. There has been no variation of that rule.

Mr. OLMSTED. On House joint resolution 278 I placed the minority report in the hands of the gentleman from Tennessee [Mr. GARRETT], who filed them both together, and when I sent down for a copy of the report I only got the majority report.

The SPEAKER. There is no question about the rule and practice. Somebody made a mistake about it. The Chair does not know who it was.

Mr. GARRETT. Mr. Speaker, I ask unanimous consent that they be reprinted and printed together.

The SPEAKER. The gentleman from Tennessee asks unanimous consent that the report (No. 635) of the majority and the views of the minority on House joint resolution 278 be reprinted and printed together. Is there objection? [After a pause.] The Chair hears none.

Mr. OLMSTED. If it is a mistake in this particular case, I do not wish to make any fuss about it, but when people send for a report they ought to be able to get both sides of the question.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

Mr. JOHNSON of South Carolina. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the legislative, executive, and judicial appropriation bill.

The SPEAKER. The gentleman from South Carolina [Mr. JOHNSON] moves that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 24023, the legislative, executive, and judicial appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 24023) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1913, and for other purposes, with Mr. UNDERWOOD in the chair.

The Clerk read as follows:

For the following in the office of the President of the United States: Secretary, at the rate of $7,500 per annum until March 4, 1913, and at the rate of $6,000 per annum on and after March 4, 1913; executive clerk, $5,000; chief clerk, $4,000; appointment clerk, $3,500; record clerk, $2,500; 2 expert stenographers, at $2,500 each; accountant, $2,500; 2 correspondents, at $2,250 each; disbursing clerk, $2,000; clerks—3 at $2,000 each, 6 of class 4, 2 of class 3, 5 of class 2; 2 of class 1; 1 clerk-messenger, $1,000; 2 messengers, at $900 each; 2 messengers; 2 laborers, at $720 each; in all, $71,336.66: *Provided*, That employees of the executive departments and other establishments of the executive branch of the Government may be detailed from time to time to the office of the President of the United States, for such temporary assistance as may be necessary.

Mr. GILLETT. Mr. Chairman, I move to amend by striking out, on page 28, in lines 9, 10, 11, and 12, all the words that limit the salary of the Secretary to the President so that it will stand:

Secretary, $7,500.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 28, strike out, in lines 10, 11, and 12, the following:
"Until March 4, 1913, and at the rate of $6,000 per annum on and after March 4, 1913."

Mr. GILLETT. Mr. Chairman, I have no desire to take the time of the House in any discussion of this kind. It was discussed very thoroughly, at great length, and with much warmth last year, and the Secretary's salary was established at $7,500.

Mr. BARTLETT. I understand the gentleman objects to the amendment which provides that after March 4, 1913, the salary shall be $6,000?

Mr. GILLETT. I do.

Mr. BARTLETT. That does not interfere with the present occupant of that position, does it?

Mr. GILLETT. It does not.

Mr. BARTLETT. And the gentleman ought not to concern himself about the next occupant, probably. It is our duty to take care of him. The gentleman knows it will be an entirely different political party then in charge.

Mr. GILLETT. Mr. Chairman, that is just where I differ from the gentleman. I am opposing this item and offering this amendment, not for any particular individual, but because I think it is the proper salary for the office, regardless of what party or what individual shall fill it. I think, as I stated last year, that the office of the secretary to the President, considering the length of his hours of labor, the quality of work required of him, the judgment, wisdom, and tact which he ought to possess, is well entitled to $7,500. I think it is a mistake to cut it down, and therefore I offer this amendment.

Mr. BUCHANAN. Mr. Chairman, I raise the point of order that there is no quorum present.

The CHAIRMAN. The gentleman from Illinois [Mr. BUCHANAN] makes the point of order that there is no quorum present. The Chair will count. [After counting.] There are 104 Members present—a quorum.

Mr. JOHNSON of South Carolina. Mr. Chairman, the amendment before the House is to strike out the provision that fixes the salary of the Secretary to the President at $6,000 after March 4, 1913. In order that the action of the committee might be absolutely nonpartisan and impersonal, we made the regulation to take effect after the beginning of the next term. We can not know who the occupant of the White House will be, whether he will be a Democrat or whether he will be a Republican. We thought that $6,000 was proper compensation.

I want to call the attention of the committee to this fact: The section that has just been read provides for the Executive offices—the clerical help of the President of the United States. The Committee on Appropriations for the current year provided for the President the number of people that they asked for and at the salaries they asked. There was not the dotting of an "i" or the crossing of a "t" in the request that came from the Executive offices, as it was put in the bill. But when the bill went over to the Senate, notwithstanding the House had given the President every employee that was asked for, and had given the salaries that had been asked for, the Senate increased the compensation of the secretary from $6,000 to $10,000. When the bill came back to the House during the closing hours of a short session of Congress, the House was practically compelled by way of compromise to put the salary at $7,500.

Now, that is how the present arrangement came about. This committee has endeavored to be absolutely fair. We did not want to do anything that would be considered as a personal affront to the President of the United States by reducing the compensation of his secretary. We did not want to do anything that would be partisan in its character. So that it might be fair, in order that it might be nonpartisan, we put it in the law that it should take effect March 4, 1913.

Mr. CANNON. Mr. Chairman, I approve of the amendment offered by the gentleman from Massachusetts [Mr. GILLETT]. We all know something of what the duties of the private secretary to the President are. The salary now fixed by law is $7,500. This proposes to decrease the salary after the 4th of March next to $6,000.

Mr. JOHNSON of South Carolina. Mr. Chairman, does the gentleman from Illinois [Mr. CANNON] understand that there is no law fixing the salary of $7,500 now? It is simply in the current appropriation law, but it has never been enacted.

Mr. CANNON. What is the salary by law?

Mr. JOHNSON of South Carolina. The salary by law is $5,000, I think.

Mr. CANNON. The gentleman, then, might have accomplished——

Mr. JOHNSON of South Carolina. Mr. Loeb was the first man who ever received in excess of $5,000. The House increased his salary to $6,000.

Mr. CANNON. I was under the impression that the law provided for $7,500.

Mr. JOHNSON of South Carolina. No, sir.

Mr. CANNON. Then a point of order would have taken this item out?

Mr. JOHNSON of South Carolina. It would be too late now, as the gentleman well knows.

Mr. MANN. It would not, anyhow. A point of order would not have taken it out.

Mr. JOHNSON of South Carolina. Not under the Holman rule.

Mr. CANNON. The gentleman says the law is $5,000, and a point of order would have taken it out.

Mr. JOHNSON of South Carolina. If the gentleman had made a point of order against $6,000 it would have obtained, but the amendment has been discussed, and it is too late.

Mr. CANNON. Precisely. It is not subject to the point of order. I favor the amendment. We pay the Librarian of Congress $6,500 a year. We pay the Superintendent of the Library, the man that just cares for the building, $5,000 a year. We pay Cabinet officials, I believe, $12,000 a year. Now, the gentleman seems to feel that out of courtesy to the President this salary should remain at $7,500 up until the 4th of March next, and then should be only $6,000.

I do not know who will be inaugurated on the 4th of March next. It may be the Speaker of this House. [Applause.] It may be the gentleman who presides over the Committee of the Whole, Mr. UNDERWOOD. It may be a Republican, a Democrat, or what not. [Laughter.] I did not intend to call Mr. Bryan by name [renewed laughter]; but, gentlemen, soberly now, and it is early in the morning, and we are all duly sober—the secretary to the President is one of the most important officials in the Government; in my judgment, after the President, the most important connected with the Executive office. And whoever is nominated and elected as President, he will be my President, as well as your President, and I will not care to play what seems to me—not speaking discourteously—peanut politics. [Laughter and applause].

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Massachusetts [Mr. GILLETT].

The question was taken, and the Chairman announced that the "noes" seemed to have it.

Mr. GILLETT, Mr. CANNON, and Mr. DYER demanded a division.

The committee divided; and there were—ayes 40, noes 49.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

On and after March 4, 1913, the salary of the Secretary to the President shall be at the rate of $6,000 per annum.

Mr. GILLETT. Mr. Chairman, I make the point of order that that is new legislation.

The CHAIRMAN. The Chair will hear the gentleman from Massachusetts.

Mr. GILLETT. It is new legislation. The Holman rule would be the only warrant or justification for it.

The CHAIRMAN. The Chair will state that the Chair has not the statute before him. What is the salary in the present law now?

Mr. GILLETT. It fixes the salary at $5,000, I understand.

Mr. SHERLEY. Mr. Chairman——

Mr. MANN. Before the Chair sustains the point of order will he hear a word?

The CHAIRMAN. I will recognize the gentleman from Illinois after the gentleman from Kentucky [Mr. SHERLEY]. The gentleman from Kentucky is recognized.

Mr. SHERLEY. Mr. Chairman, the Clerk has just read the paragraph in this bill, to which a point of order has been made, relating to the salary of the Secretary to the President, which for the next fiscal year is covered by an item which has just been adopted by the House, making the salary after the 4th day of March $6,000, and this provision is in keeping with that; and the House having permitted that to stay in, I submit that the second paragraph is not subject to a point of order.

Mr. MANN. Mr. Chairman, the paragraph which has already been passed in the committee is a mere appropriation. Whatever salary may have been fixed, the House is quite at liberty to appropriate either more or less. When no point or order is made the House can appropriate more, and it can appropriate less than the amount provided by law regardless of the amount fixed by law.

Now, the Holman rule provides that it shall be in order where the bill—

Shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill.

And if this paragraph proposing to fix the salary of the Secretary to the President proposes to fix it at a less amount than is now authorized by law, it would be a reduction in the compensation, and hence I think it is in order. But it proposes now to make a law increasing the salary.

Mr. GILLETT. I understand the Chair sustained the point of order on that ground.

Mr. MANN. I thought the Chair overruled the point of order.

The CHAIRMAN. The Chair intended to sustain the point of order. The Chair thinks the gentleman from Illinois misunderstood the Chair. As the Chair understands the law, the compensation provided by law is $5,000. The fact that the salary has been fixed at $7,500 by an appropriation bill in years past does not change the law of the land, and the Holman rule does not apply in this case. The Chair therefore sustains the point of order. The Clerk will read.

Mr. BARTLETT. Mr. Chairman, I move to insert "$5,000" in place of "$6,000."

Mr. FITZGERALD. I make the point of order, Mr. Chairman, that that paragraph is passed.

Mr. BARTLETT. If the gentleman wants to make a point of order on it, I will withdraw my motion.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

CIVIL SERVICE COMMISSION.

For commissioner, acting as president of the commission, $4,500; 2 commissioners, at $4,000 each; chief examiner, $3,000; secretary, $2,500; assistant chief examiner, $2,250; 3 chiefs of division, at $2,000 each; examiner, $2,400; 3 examiners, at $2,000 each; 4 examiners, at $1,800 each; clerks—4 of class 4, 21 of class 3, 28 of class 2, 38 of class 1, 32 at $1,000 each, 20 clerks, at $900 each; messenger; assistant messenger; engineer, $840; telephone switchboard operator; 2 firemen, at $720 each; 2 watchmen; elevator conductor, $720; 3 laborers; 3 messenger boys, at $360 each; in all, $227,230.

Mr. DYER. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Missouri [Mr. DYER] moves to strike out the last word.

Mr. DYER. I would like to ask the chairman of the subcommittee, the gentleman from South Carolina [Mr. JOHNSON], concerning the item where it says there are "three laborers and three messenger boys, at $360 each," what is the class of work done by these three laborers, and how many hours they have to devote to that class of work?

Mr. JOHNSON of South Carolina. On what page is it?

Mr. DYER. Page 29, at the bottom of the page, line 23.

Mr. JOHNSON of South Carolina. "Three messenger boys, at $360 each." I asked that question myself. They are boys who just put in a few hours a day; schoolboys who do this light errand work.

Mr. DYER. That applies to the three laborers also?

Mr. JOHNSON of South Carolina. No. I understand that in the case of the boys it is light work, just for schoolboys who want these temporary places. The laborers get $660.

Mr. DYER. There is nothing there saying that they shall get $660.

Mr. FITZGERALD. There is a general law that fixes the compensation of laborers at that amount.

Mr. DYER. Very well. I withdraw my pro forma amendment.

The CHAIRMAN. The gentleman from Missouri [Mr. DYER] withdraws his pro forma amendment. The Clerk will read.

The Clerk read as follows:

DEPARTMENT OF STATE.

For Secretary of State, $12,000; Assistant Secretary, $5,000; Second and Third Assistant Secretaries, at $4,500 each; chief clerk, $3,000; 2 Assistant Solicitors of the Department of State, to be appointed by the Secretary of State, at $3,000 each; law clerk, and assistant, to be selected and appointed by the Secretary of State, to edit the laws of Congress and perform such other duties as may be required of them, at $2,500 and $1,500, respectively; Chief of Bureau of Manufactures and Trade Relations, $2,500; 2 chiefs of bureaus, at $2,250 each; 5 chiefs of bureaus, at $2,100 each; 2 translators, at $2,100 each; additional to Chief of Bureau of Accounts as disbursing clerk, $200; private secretary to the Secretary, $2,500; clerk to the Secretary, $1,800; clerks—16 of class 4, 16 of class 3, 25 of class 2, 41 of class 1, 3 of whom shall be telegraph operators, 16 at $1,000 each, 19 at $900 each; chief messenger, $1,000; 5 messengers; 22 assistant messengers; messenger boy, $420; packer, $720; 4 laborers, at $600 each; telephone switchboard operator; assistant telephone switchboard operator; in all, $262,800.

Mr. GILLETT. Mr. Chairman, I make the point of order, on line 18, page 31, against "Chief of Bureau of Manufactures and Trade Relations, $2,500."

The CHAIRMAN. What is the gentleman's point of order?

Mr. GILLETT. That that is not authorized by law. There is at present a Bureau of Trade Relations, but subsequently in the bill, under the Department of Commerce and Labor, the present Bureau of Manufactures in that department is transferred or attempted to be transferred to the Department of State; and in anticipation of that the committee in this section has put in "Chief of the Bureau of Manufactures and Trade Relations." But there is at present no such bureau, as I have no doubt the gentleman from South Carolina [Mr. JOHNSON] will admit.

Mr. JOHNSON of South Carolina. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and Mr. HAY having taken the chair as Speaker pro tempore, Mr. UNDERWOOD, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 24023) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1913, and for other purposes, and had come to no resolution thereon.

Mr. MANN. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. MANN] makes the point of order that there is no quorum present. The Chair will count. [After counting.] One hundred and twenty-four Members are present—not a quorum.

Mr. UNDERWOOD. Mr. Speaker, I move a call of the House.

The motion was agreed to.

The SPEAKER pro tempore. A call of the House is ordered. The Doorkeeper will close the doors, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Anderson, Ohio.	Fields	Langley	Saunders
Andrus	Fordney	Legare	Scully
Barchfeld	Fornes	Levy	Sells
Bates	Francis	Lindsay	Shackleford
Bathrick	Gardner, Mass.	Linthicum	Sheppard
Bradley	George	Lloyd	Simmons
Burgess	Goldfogle	Longworth	Sisson
Burke, Pa.	Greene, Mass.	McGillicuddy	Small
Burleson	Griest	McHenry	Samuel W. Smith
Butler	Gudger	McMorran	Smith, Cal.
Calder	Guernsey	Madden	Smith, N. Y.
Callaway	Hanna	Maher	Sparkman
Clark, Fla.	Hardwick	Matthews	Stack
Conry	Harrison, N. Y.	Mays	Stanley
Covington	Hayden	Moon, Pa.	Stephens, Nebr.
Cox, Ind.	Heald	Moore, Tex.	Stephens, Miss.
Cox, Ohio.	Hensley	Murdock	Stevens, Minn.
Cravens	Higgins	Nelson	Sweet
Crumpacker	Hill	Olmsted	Switzer
Curley	Hinds	Parran	Taggart
Davenport	Hobson	Patten, N. Y.	Talbott, Md.
Davidson	Houston	Pepper	Taylor, Ala.
Dickson, Miss.	Howard	Peters	Taylor, Ohio
Difenderfer	Hughes, W. Va.	Porter	Tuttle
Dodds	Jackson	Prince	Utter
Donohoe	Johnson, Ky.	Prouty	Vreeland
Doremus	Kahn	Pujo	Weeks
Doughton	Kindred	Randell, Tex.	Whitacre
Draper	Kitchin	Reyburn	Wilson, N. Y.
Dwight	Konop	Riordan	Wood, N. J.
Fairchild	Kopp	Robinson	Woods, Iowa
Faison	Lafean	Rodenberg	
Ferris	Lamb	Rucker, Colo.	

The SPEAKER pro tempore. Two hundred and fifty-seven Members have answered to their names, a quorum.

Mr. UNDERWOOD. Mr. Speaker, I move to dispense with further proceedings under the call.

The motion was agreed to.

RULE FOR LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. HENRY of Texas. Mr. Speaker, I submit a privileged resolution from the Committee on Rules.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 521 (H. Rept. 658).

Resolved, That in the consideration of the bill (H. R. 24023) making appropriations for the legislative, executive, and judicial expenses of the Government, and for other purposes, in the Committee of the Whole House on the state of the Union, it shall be in order to consider without intervention of a point of order any section of the bill as reported, and an amendment authorized by the Committee on Appropriations as a committee amendment, to read as follows:

"Hereafter the administrative examination of all public accounts, preliminary to their audit by the accounting officers of the Treasury, shall be made, as contemplated by the so-called Dockery Act, approved July 31, 1894, and all vouchers and pay rolls shall be prepared and examined by and through the administrative heads of divisions and bureaus in the executive departments and not by the disbursing clerks of said departments, except that the disbursing officers shall make only such examination of all vouchers as may be necessary to ascertain whether they represent legal claims against the United States."

Mr. HENRY of Texas. Mr. Speaker, I demand the previous question on the resolution.

Mr. CAMPBELL. Mr. Speaker, I demand the yeas and nays on the previous question.

The SPEAKER pro tempore. All those in favor of ordering the yeas and nays will rise. [After counting.] Forty-one Members have risen, not a sufficient number.

Mr. CAMPBELL. I demand the other side.

The other side was taken, and 151 Members having arisen, the yeas and nays were ordered.

The question was taken; and there were—yeas 138, nays 107; answered "present" 6, not voting 140, as follows:

YEAS—138.

Adair	Edwards	Johnson, S. C.	Rothermel
Aiken, S. C.	Ellerbe	Jones	Rouse
Alexander	Evans	Kinkead, N. J.	Rubey
Allen	Fergusson	Korbly	Rucker, Mo.
Ansberry	Finley	Lee, Ga.	Russell
Ashbrook	Fitzgerald	Lee, Pa.	Sabath
Ayres	Flood, Va.	Lever	Sherley
Barnhart	Floyd, Ark.	Littlepage	Sherwood
Beall, Tex.	Foster	Lobeck	Sims
Bell, Ga.	Fowler	McCoy	Slayden
Blackmon	Gallagher	McDermott	Smith, Tex.
Boehne	Garner	McKellar	Stanley
Borland	Garrett	Macon	Stedman
Brown	Glass	Maguire, Nebr.	Stephens, Miss.
Buchanan	Godwin, N. C.	Martin, Colo.	Stone
Bulkley	Goeke	Moon, Tenn.	Sulzer
Burke, Wis.	Goodwin, Ark.	Morrison	Taggart
Burnett	Graham	Moss, Ind.	Talcott, N. Y.
Byrnes, S. C.	Gray	Murray	Taylor, Ala.
Byrns, Tenn.	Gregg, Pa.	Neeley	Taylor, Colo.
Candler	Gregg, Tex.	Oldfield	Thayer
Cantrill	Hamilton, W. Va.	O'Shaunessy	Thomas
Carter	Hamlin	Padgett	Townsend
Cary	Hammond	Page	Tribble
Clayton	Hardy	Palmer	Turnbull
Collier	Harrison, Miss.	Peters	Underhill
Connell	Hay	Post	Underwood
Cullop	Heflin	Pou	Watkins
Daugherty	Helm	Rainey	Webb
Davis, W. Va.	Henry, Tex.	Ransdell, La.	White
Dent	Holland	Rauch	Wilson, Pa.
Denver	Hughes, Ga.	Redfield	Witherspoon
Dickinson	Hull	Reilly	Young, Tex.
Dies	Humphreys, Miss.	Richardson	
Dixon, Ind.	Jacoway	Roddenbery	

NAYS—107.

Ainey	Foss	Lawrence	Pray
Akin, N. Y.	French	Lenroot	Prouty
Ames	Fuller	Lindbergh	Raker
Anderson, Minn.	Gardner, N. J.	Loud	Rees
Anthony	Gillett	McCall	Roberts, Nev.
Austin	Good	McCreary	Rodenberg
Berger	Green, Iowa	McGuire, Okla.	Stamp
Bowman	Hamilton, Mich.	McKenzie	Sloan
Broussard	Harris	McKinley	Smith, J. M. C.
Browning	Hartman	McKinney	Speer
Cannon	Haugen	McLaughlin	Steenerson
Cooper	Hawley	Malby	Stephens, Cal.
Copley	Hayes	Mann	Sterling
Crago	Helgesen	Martin, S. Dak.	Sulloway
Currier	Henry, Conn.	Miller	Taylor, Ohio
Curry	Howell	Moore, Pa.	Thistlewood
Danforth	Howland	Morgan	Tilson
Davis, Minn.	Hubbard	Morse, Wis.	Towner
De Forest	Humphrey, Wash.	Mott	Volstead
Dodds	Kendall	Murdock	Warburton
Driscoll, M. E.	Kennedy	Needham	Wedemeyer
Dupré	Kent	Norris	Wilder
Dyer	Knowland	Nye	Willis
Esch	Kopp	Patton, Pa.	Wilson, Ill.
Estopinal	Lafferty	Payne	Young, Kans.
Farr	La Follette	Pickett	Young, Mich.
Focht	Langham	Powers	

ANSWERED "PRESENT"—6.

Adamson	Burke, S. Dak.	Hamill	Levy
Bartlett	Campbell		

NOT VOTING—140.

Anderson, Ohio	Draper	Kahn	Randell, Tex.
Andrus	Driscoll, D. A.	Kindred	Reyburn
Barchfeld	Dwight	Kinkaid, Nebr.	Riordan
Bartholdt	Fairchild	Kitchin	Roberts, Mass.
Bates	Faison	Konig	Robinson
Bathrick	Ferris	Konop	Rucker, Colo.
Booher	Fields	Lafean	Saunders
Bradley	Fordney	Lamb	Scully
Brantley	Fornes	Langley	Sells
Burgess	Francis	Legare	Shackleford
Burke, Pa.	Gardner, Mass.	Lewis	Sharp
Burleson	George	Lindsay	Sheppard
Butler	Goldfogle	Linthicum	Simmons
Calder	Gould	Littleton	Sisson
Callaway	Greene, Mass.	Lloyd	Small
Carlin	Griest	Longworth	Smith, Saml. W.
Catlin	Gudger	McGillicuddy	Smith, Cal.
Clark, Fla.	Guernsey	McHenry	Smith, N. Y.
Claypool	Hanna	McMorran	Sparkman
Cline	Hardwick	Madden	Stack
Conry	Harrison, N. Y.	Maher	Stephens, Nebr.
Covington	Hayden	Matthews	Stephens, Tex.
Cox, Ind.	Heald	Mays	Stevens, Minn.
Cox, Ohio	Hensley	Mondell	Sweet
Cravens	Higgins	Moon, Pa.	Switzer
Crumpacker	Hill	Moore, Tex.	Talbott, Md.
Curley	Hinds	Nelson	Tuttle
Dalzell	Hobson	Olmsted	Utter
Davenport	Houston	Parran	Vreeland
Davidson	Howard	Patten, N. Y.	Weeks
Dickson, Miss.	Hughes, N. J.	Pepper	Whitacre
Difenderfer	Hughes, W. Va.	Plumley	Wickliffe
Donohoe	Jackson	Porter	Wilson, N. Y.
Doremus	James	Prince	Wood, N. J.
Doughton	Johnson, Ky.	Pujo	Woods, Iowa

So the previous question was ordered.

The Clerk announced the following pairs:

For the session:

Mr. BARTLETT with Mr. BUTLER.
Mr. HOBSON with Mr. FAIRCHILD.
Mr. RIORDAN with Mr. ANDRUS.
Mr. FORNES with Mr. BRADLEY.
Mr. ADAMSON with Mr. STEVENS of Minnesota.

Until further notice:

Mr. LANGLEY with Mr. FIELDS.
Mr. LEGARE with Mr. WOODS of Iowa.
Mr. TUTTLE with Mr. WOOD of New Jersey.
Mr. SMALL with Mr. WEEKS.
Mr. SISSON with Mr. VREELAND.
Mr. SHARP with Mr. UTTER.
Mr. RUCKER of Colorado with Mr. SIMMONS.
Mr. RANDELL of Texas with Mr. SELLS.
Mr. LLOYD with Mr. ROBERTS of Massachusetts.
Mr. LINTHICUM with Mr. PRINCE.
Mr. KITCHIN with Mr. OLMSTED.
Mr. KINDRED with Mr. PORTER.
Mr. HAYDEN with Mr. NELSON.
Mr. GUDGER with Mr. MONDELL.
Mr. GOLDFOGLE with Mr. MADDEN.
Mr. GEORGE with Mr. KINKAID of Nebraska.
Mr. FRANCIS with Mr. JACKSON.
Mr. FERRIS with Mr. HUGHES of West Virginia.
Mr. FAISON with Mr. HEALD.
Mr. DANIEL A. DRISCOLL with Mr. HIGGINS.
Mr. DIFENDERFER with Mr. PLUMLEY.
Mr. CURLEY with Mr. GREENE of Massachusetts.
Mr. COX of Ohio with Mr. DALZELL.
Mr. CARLIN with Mr. CRUMPACKER.
Mr. COVINGTON with Mr. CALDER.
Mr. CALLAWAY with Mr. BURKE of Pennsylvania.
Mr. BRANTLEY with Mr. BARCHFELD.
Mr. BOOHER with Mr. BARTHOLDT.
Mr. WILSON of New York with Mr. LAFEAN.
Mr. PATTEN of New York with Mr. GRIEST.
Mr. HOWARD with Mr. MATTHEWS.
Mr. DOUGHTON with Mr. FORDNEY.
Mr. LITTLETON with Mr. DWIGHT.
Mr. TALBOTT of Maryland with Mr. PARRAN.
Mr. BATHRICK with Mr. SAMUEL W. SMITH.
Mr. HARRISON of New York with Mr. HINDS.
Mr. MCGILLICUDDY with Mr. GUERNSEY.
Mr. PUJO with Mr. MCMORRAN.
Mr. CLARK of Florida with Mr. AMES.
Mr. MCHENRY with Mr. SWITZER.
Mr. SPARKMAN with Mr. DAVIDSON.
Mr. HOUSTON with Mr. MOON of Pennsylvania.
Mr. MAYS with Mr. THISTLEWOOD.
Mr. COX of Indiana with Mr. REYBURN.
Mr. SHEPPARD with Mr. BATES.
Mr. BURLESON with Mr. KAHN.
Mr. HARDWICK with Mr. CAMPBELL.
Mr. DAVENPORT with Mr. BURKE of South Dakota.

Until May 21:

Mr. BURGESS with Mr. WEEKS.

Ending May 4:

Mr. HENSLEY with Mr. HANNA.
Mr. JAMES with Mr. LONGWORTH.

From May 3 and ending two weeks hence:

Mr. SHACKLEFORD with Mr. DRAPER.

Mr. CAMPBELL. Mr. Speaker, how am I recorded as voting?

The SPEAKER pro tempore. In the negative.

Mr. CAMPBELL. Mr. Speaker, I have a general pair with the gentleman from Georgia, Mr. HARDWICK, and I ask that my name be called again.

The SPEAKER pro tempore. Call the name of the gentleman from Kansas.

The name of Mr. CAMPBELL was called, and he answered "Present."

The result of the vote was announced as above recorded.

The SPEAKER. The gentleman from Texas is recognized for 20 minutes.

Mr. HENRY of Texas. Mr. Speaker, the resolution upon which the previous question has just been ordered makes certain legislative provisions now in the bill being considered in order and not subject to a point of order. All of those legislative provisions are in behalf of public economy and retrenchment in the expenditures of this Government. Those legislative matters to which I have referred are already in the bill as reported to the House, upon which the Members will be allowed to vote as to their merits after the adoption of this rule. And in addition to those there is a provision that one amendment, which

is set out at the end of the rule, shall be in order and not subject to a point of order. It seems to me that this explanation is sufficient to inform the House about the effect of the resolution that is now under consideration. I reserve the balance of my time.

The SPEAKER. The gentleman from Texas reserves the balance of his time. The gentleman from Wisconsin is recognized for 20 minutes.

Mr. LENROOT. Mr. Speaker, if I shall occupy as much as 10 minutes I will ask the Speaker to notify me at the end of that time, as I wish to yield to others. Mr. Speaker, I have often wondered upon what theory the Democratic Party called itself progressive. We have some illustration of it in the rule now before the House. Before those gentlemen who are now in a majority became the majority, so long as I have been a Member of the House, no special rule making new legislation in order on an appropriation bill was ever reported to the House until the point of order was determined by the Chair. After that was done it sometimes happened that the Committee on Rules did report a rule specifying that things that had been held out of order should be held in order on an appropriation bill.

Mr. PALMER. Mr. Speaker——

Mr. LENROOT. I can not yield in the time I have.

Mr. PALMER. I wanted to call the gentleman's attention to some instances——

Mr. LENROOT. I can not yield. A short time ago we had the first illustration of the progress of the Democratic majority along that line, namely, the Post Office appropriation bill, when, even before any matters had been held out of order, the Committee on Rules was assembled and reported a rule to this House specifying a large number of matters that should be held in order notwithstanding the rules of the House. This morning we find that the majority has taken another step along these lines, and we now have before us a rule abrogating Rule XXI of the House and making everything in this legislative appropriation bill, a bill consisting of 135 pages, in order. Progress, Mr. Speaker, along that line may be satisfactory to the Democratic majority, but I want to ask the chairman of the Committee on Rules, instead of reporting a rule of this kind making everything in order on this bill, why do not they squarely offer an amendment to the general rules of the House repealing Rule XXI? Why should everything be in order upon this bill any more than upon any other appropriation bill, and I hope some gentleman will answer in this debate. Now, Mr. Speaker, I can see some reason why the majority wants to do this thing. They want to get some legislation contrary to the general rules of the House in this bill reported by the committee without going upon record on a roll call of the House. We had an illustration only day before yesterday of the Democratic majority dodging an important question of a parcel post, and we now have another proposition—perhaps there are many more, but the one I have especially in mind is where they propose to dodge another question—namely, the revolutionizing of the classified service of the Government and throwing out upon the world every employee here in Washington over 65 years of age. Now, the majority knows that if they are compelled to vote on an aye-and-no vote on the question it would not command a corporal's guard upon either side of the aisle, because it would meet with the just condemnation of this country from one end to the other, but with this rule adopted, with the legislation being in order and no roll call possible upon it, they may do it and get away with it. Now there are times, Mr. Speaker, when I frankly concede that legislation and appropriations are so intimately connected that they should be considered together, but never, in my judgment, should general legislation of an important nature be considered in any appropriation bill. The rule that has been in force—I do not know how long, but I think ever since Congress began its life—prohibited general legislation upon appropriation bills. It was a wise rule, but if the Democratic majority shall progress further along the line they propose this morning then I see no reason why all legislation of the Congress of the United States should not be and will not be included in appropriation bills, thereby enabling the majority to avoid going upon record where the people of this country may have an opportunity of knowing how they voted upon the various questions, for it is a splendid method of concealing from their constituents how they stand upon important questions. [Applause.]

Now, I want to yield some of my time.

The SPEAKER. The gentleman has consumed six minutes.

Mr. LENROOT. Then I will yield five minutes to the gentleman from Illinois [Mr. MANN].

Mr. MANN. Mr. Speaker, the rule makes in order on this legislative bill, contrary to the ordinary rules of the House, an appropriation that is not authorized by existing law, and there are a number of such items in the bill. It also makes in order any legislative proposition in the bill, and, as the gentleman from Wisconsin has just remarked, will allow an avoidance of a roll call upon the several items in the bill, because when the Committee of the Whole, where this bill is first considered, has reported to the House, a separate vote can not be demanded on any item which was in the legislative bill, and we had an illustration the other day of the operation of a rule that we adopted a few years ago for the purpose of giving the minority an opportunity of putting the majority on record by a roll call, because the Speaker of the House refused to recognize the minority leader to make the motion to recommit the Post Office appropriation bill, stating that he felt obliged to recognize a member of the committee first, and under that same rule any member of the committee may declare himself opposed to the legislative bill upon a motion to recommit and receive recognition, although in that case, as in the case the other day, the gentleman who obtained recognition and declared that he was opposed to the bill did not vote against it on the division which I demanded. The theory of legislation is that Members of the House shall go on record on legislative propositions. That is avoided in the Committee of the Whole House on the state of the Union, because we all know that it is not possible to have a roll call upon every item of appropriations in a long appropriation bill and ever finish the bill, but by this rule which you bring in you show that, through cowardice, you are afraid to go on record on a legislative proposition in your bill; you are afraid to vote upon these different propositions, knowing well that the minority can not vote against the bill in the end which provides the money with which to carry on the Government. However, I am inclined to think that if you keep on adding these legislative provisions to appropriation bills, cowardly refusing to place yourself on record on the items of legislation, that the President will be called upon to do what President Hayes did do many times, veto the appropriation bills, and let the country decide whether you should deprive the Government of existence through cowardly refusing to go on record on legislative propositions.

You might as well say here that we have adopted rules of the House and we now abandon them. Why do you not provide that you do away with the rules and let everything be considered on appropriation bills? Here is an appropriation committee with no legislative jurisdiction over the subject matter in this bill, reporting a bill covering these matters of legislation that belong to other committees, and you are afraid to vote on it, afraid to vote either "aye" or "no," afraid to go on record; but you hide behind a Committee of the Whole, where a roll call can not be called.

The SPEAKER. The time of the gentleman from Illinois [Mr. MANN] has expired.

Mr. LENROOT. Will not the gentleman from Tennessee [Mr. GARRETT] use some of his time?

Mr. GARRETT. I yield five minutes to the gentleman from South Carolina [Mr. JOHNSON].

Mr. JOHNSON of South Carolina. Mr. Speaker, every provision in this legislative bill is intimately connected with and relates to appropriations and tends to economize in the public expenditures.

As to the section of the bill to which the gentleman from Wisconsin [Mr. LENROOT] has referred, and which will be fully debated when we reach it, in regard to the classified service in the District of Columbia, I would say that the committee proposes—and that may allay your alarm—when that section is reached to strike out "65 years" and make people who are in the classified service eligible for reappointment as long as they are able to discharge the duties of their office. We propose to go further. We are dealing with a great question and we are not trying to do it in a cowardly way or a partisan way. We are willing to strike out "1914," when all the people who are now in the service would be eligible for reappointment without further examination, and insert in lieu thereof "July 1, 1917," so that two presidential elections will intervene between the time that we pass this law and the time when any Government employee will come up for reappointment. The difficulty about this thing is this: What the committee had in mind is not the age limit, which has been seized upon to alarm the public. The age limit is of no importance. What we have in mind and what we want the House to consider is whether in the classified service of the Government hereafter men shall be appointed for a definite period of time or for life.

We believe that it is in the interest of efficient administration, we believe it is in the interest of economical adminstraton, that people shall be appointed for a definite period of time.

I do not care whether you make it five years, or seven years, or nine years. There is no politics in it, and it is simply those who conjure up things in their imagination that can find either cowardice or politics in it.

I have never known the day, whether in the majority or in the minority, in Washington or in my district, I was afraid to say honestly where I stood.

The SPEAKER. The time of the gentleman from South Carolina [Mr. JOHNSON] has expired.

Mr. GARRETT. Mr. Speaker, I yield two minutes more to the gentleman.

Mr. JOHNSON of South Carolina. Let me say one word more about legislation on an appropriation bill. Under the great Magna Charta, to which we trace our liberties, the English Parliament has wrung from kings rights for the people. Parliament has secured those rights because it attached to the money bills to run the Government the laws that the people demanded. This Congress ought to repeal the rule which prohibits legislation on appropriation bills. We have a right to say to the Government upon what terms these moneys are granted. Of course, special privilege objects, because they can keep their hands in the Treasury until the House and the Senate and the Executive are all against them. But if you can put *your legislation* on bills that must be considered by all branches of the Government, that must be acted on, then people must show their colors, and sometimes, perhaps, they would permit special privilege to lose its hold rather than to starve the Government. [Applause.]

The SPEAKER. The time of the gentleman from South Carolina [Mr. JOHNSON] has expired. The gentleman from Wisconsin [Mr. LENROOT] has 9 minutes remaining and the gentleman from Tennessee [Mr. GARRETT] 10 minutes remaining.

Mr. LENROOT. Mr. Speaker, I yield two minutes to the gentleman from Wisconsin [Mr. COOPER].

Mr. COOPER. Mr. Speaker, the gentleman from South Carolina has completely misinterpreted the spirit and purpose of the rule which prohibits new legislation upon general appropriation bills. General appropriation bills are passed to support the Government. They must be passed in order that the Republic may live. Every Member of the House is anxious that the Government shall live, and therefore anxious to support the general appropriation bills. But when there is coupled with such a bill other legislation to which he is opposed on principle an honest legislator is put in this dilemma: He must either vote for the entire bill, including the objectionable legislative riders, or else vote against the bill, and so vote against appropriations necessary to sustain the Government. This is a species of legislation by coercion.

Once on this floor, when men had declared that a House general appropriation bill containing new legislative provisions must be enacted into law, and had threatened that if the Senate did not pass it containing those provisions the House would refuse to pass the general appropriation bills, Gen. Garfield, in a speech, very powerfully brought home to certain gentlemen the evil possible in this method of legislating when he said:

> You tried for four years to shoot this Government to death, and now because upon a general appropriation bill necessary in part to sustain the Government you can not have your way upon irrelevant subject matters, you propose to starve it to death.

[Applause.]

The SPEAKER. The time of the gentleman from Wisconsin [Mr. COOPER] has expired.

Mr. LENROOT. Mr. Speaker, I yield one minute more to the gentleman from Wisconsin [Mr. COOPER].

Mr. COOPER. New legislation on a general appropriation bill like this is absolutely without excuse except where it is of an unimportant character or there is a general acquiescence in the proposition involved in the rider; but not where the legislation proposes, as in this case, to change a law which experience has demonstrated to be of very great importance to the proper administration of the civil service of the country. [Applause.]

Mr. LENROOT. Mr. Speaker, I yield the balance of my time to the gentleman from Kansas [Mr. CAMPBELL].

The SPEAKER. The gentleman from Kansas [Mr. CAMPBELL] is recognized for six minutes.

Mr. CAMPBELL. Mr. Speaker, it has just been stated by the gentleman from South Carolina that the British Parliament wrested certain good laws from the King by attaching those laws to appropriation bills, and likened the necessity of attaching laws in this bill to the necessity that existed in the British Empire in the years that have so long gone by.

There is no similarity between the conditions existing then in that country and now in this country. We are the sovereigns here. We have rules by which we can pass laws for our own government. We have the pursestrings in our hands and are empowered to make appropriations for the maintenance of the Government, and we have wisely from the beginning recognized the wisdom of separating general legislation from appropriation bills. Nothing could more emphasize the wisdom of that separation than the attempt that is being made here to pass important laws on this appropriation bill.

Take the matter of the change that is proposed in our civil service. Let it be understood that the civil service as it is now established in this country is not the growth of a year or a few years, but is the work of years and the efforts of the highest type of American citizenship. The campaign that was made against the spoils system was inaugurated years ago in this country and in behalf of reform in the civil service. It is proposed to undo on an appropriation bill in this year of grace 1912 all that has been done for civil-service reform, without a hearing by a committee, and that without a roll call. It is proposed, in effect, to abandon the benefits of all the reform in the civil service that has come as the result of so many years of work and to substitute in its place the spoils system of the old days.

Oh, gentlemen, your prospects in the November election are not sufficiently brilliant to justify you in taking that step in order to provide you with spoils to divide up among your adherents. The country is not yet ready to abandon the merit system of civil service for the spoils system.

The country is not yet ready to abandon the civil-service system for the spoils system.

You are proposing to do another thing, you say, solely for the sake of economy—for the purpose of saving money. Without a hearing, without reference to the Committee on the Judiciary, without reference to the Interstate and Foreign Commerce Committee, you propose to abolish the Court of Commerce.

Oh, that is popular. The Court of Commerce decided a case adversely to the Interstate Commerce Commission, and in some newspapers and magazines it has made itself unpopular. But you are not depriving the judges of life terms at the salaries they are now drawing for performing the services required of them in the Court of Commerce. You give them their salaries for doing absolutely nothing but wait for vacancies on the circuit bench. You save nothing by abolishing the court, except that you give these gentlemen liberty to pass perhaps the remainder of their lives in leisure. Why, it is nonsense and shows the folly of legislating in an appropriation bill. This gag rule should therefore be voted down.

The SPEAKER. The time of the gentleman has expired.

Mr. SHERLEY. Will the gentleman permit a question?

Mr. CAMPBELL. Yes.

The SPEAKER. The time of the gentleman has expired.

Mr. GARRETT. Mr. Speaker, I yield the remainder of my time—10 mintues—to the gentleman from New York [Mr. FITZGERALD].

The SPEAKER. The gentleman from New York [Mr. FITZGERALD] is recognized for 10 minutes.

Mr. MANN. How much time has the gentleman?

The SPEAKER. The gentleman from New York has 10 minutes.

Mr. GARRETT. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GARRETT. All the time on that side has expired, has it not?

The SPEAKER. All the time allotted to the gentleman from Wisconsin [Mr. LENROOT] has expired.

Mr. FITZGERALD. Mr. Speaker, this rule proposes to make in order certain provisions reported in this bill by the Committee on Appropriations. For the information of the gentleman from Wisconsin [Mr. LENROOT], let me tell him that it is based upon a rule reported and adopted by a Republican House of Representatives at the first session of the Fifty-ninth Congress, a rule for which the gentleman from Kansas [Mr. CAMPBELL] voted and on which the gentleman from Illinois [Mr. MANN] did not vote, because he was paired with the gentleman from Georgia [Mr. HOWARD].

Now, I will take up——

Mr. MANN. You will not explain the circumstances.

Mr. FITZGERALD. Yes; I will explain the circumstances. Certain gentlemen made points of order against certain provisions of the bill, as a result of which many provisions were taken out. The Committee on Rules was appealed to and brought in a rule making it in order to insert the provisions eliminated; the rule was adopted. I opposed it, because the rule was being used to take care of certain favorites of the Republican Party for whom provision had been made in the bill. In this bill there is no increase of salary proposed except to one person, and that is to remedy an error made last year by a misprint by which the salary of a laborer was reduced.

At the time referred to, in the Fifty-ninth Congress, there had been suggested a legislative provision in reference to the departmental clerks. Section 8 of the legislative appropriation bill of that year, reported from a Republican committee, provided that all the employees in the departments in Washington should go out of the service at 70 years of age, and provided that no employee over 65 years of age should be continued above a certain designated salary, and that no employee over 68 years of age should be continued above another salary. There was no minority report by the Republican members against that provision, although the gentleman from Massachusetts [Mr. GILLETT], now a member of the committee which considered this bill and a member of the subcommittee, was a member of the committee which considered that legislative bill and was a member of the subcommittee at that time, as I recall. There was some discussion when the provision was reached in the bill about the propriety of eliminating men who had attained a certain age in the Government service.

Perhaps the gentleman from Kansas [Mr. CAMPBELL] does not recall the good speeches he makes as well as other Members of the House do. On the 13th of March, 1906, in the course of that debate, the gentleman from Kansas [Mr. CAMPBELL] said:

> Mr. Chairman, has the committee given any consideration to the proposition to have the civil-service rules applied to the admission of persons into the public service, have them serve for a specified time or term, and then go out and make their way in the world before they have reached the age when they are incapacitated to take care of themselves?

Later on, being recognized in the debate, the gentleman from Kansas [Mr. CAMPBELL] made this statement:

> Why not make a term, say, of six years, and have able young men and women coming in and going out constantly after a six-year term in the public service?
>
> [Applause on the Democratic side.]
>
> Then the question of a civil pension list will never worry the Government, and the question of having done injustice to an old employee who has given a lifetime of service to the Government will not be a matter of consideration here or elsewhere.
>
> [Laughter and applause on the Democratic side.]

When a Democratic committee proposes such a provision, making the term five years instead of six years, the gentleman from Kansas declaims against this outrageous attempt to put into force the old spoils system. [Applause on the Democratic side.]

Mr. CAMPBELL. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman from New York yield to the gentleman from Kansas?

Mr. FITZGERALD. I yield for a question.

Mr. CAMPBELL. Sometimes men have occasion to change their minds, and this is a very progressive age. [Laughter.]

Mr. FITZGERALD. Yes; and judging from the gentleman's conduct, he is progressing about as rapidly as any man in public life. [Applause on the Democratic side.]

Mr. Speaker, the gentleman from Wisconsin [Mr. LENROOT] protests against making legislation in order on an appropriation bill. He voted a few days ago to make in order a provision to require the publication of the names of stockholders and editors and publishers of newspapers, which was contained in the Post Office appropriation bill. So did the other gentleman from Wisconsin [Mr. COOPER], and the gentleman from Kansas [Mr. CAMPBELL] also voted to make in order upon an appropriation bill a proposition to condemn the express companies. That is progressive, indeed. That was becoming decidedly progressive in this age of progressiveness. [Applause.]

Mr. LENROOT. Mr. Speaker, will the gentleman yield?

Mr. FITZGERALD. Yes.

Mr. LENROOT. I know that the gentleman does not wish to state an inaccuracy. I did not vote for the condemnation of express companies.

Mr. FITZGERALD. I spoke of the gentleman from Wisconsin [Mr. LENROOT] voting for the provision making the publication of the names of stockholders of newspapers compulsory, and his colleague [Mr. COOPER] voted to make that in order, and the gentleman from Kansas [Mr. CAMPBELL] not only voted for that, but he also voted to make the express-company provision in order.

Mr. Speaker, who has made a single legitimate criticism of the provisions of the bill which under this rule will be in order during the consideration of the bill; who has pointed out in this discussion obnoxious and injurious provisions in the bill as reported from the committee; who has urged any argument against it except the gentleman from Kansas [Mr. CAMPBELL], of short memory [applause on the Democratic side], who thought he could make some political capital by resurrecting a ghost, as well as the gentleman from Wisconsin [Mr. COOPER], who, like many old-time Republicans, most of them long since dead, when they had no other argument to make waved the bloody shirt and attempted to stir up sectional strife [applause on the Democratic side] and arouse the bitterness and rancor which originated in an unfortunate division among the people of this country?

He referred to a speech of Mr. Garfield's about legislation on an appropriation bill. He might have read that magnificent speech made by Mr. Garfield during the same session of Congress in which he contended that all of the legislation which he was condemning at that particular time should in the name of peace and amity be repealed so as to show that this was one country, one common brotherhood, one united country, which had forgotten and forever put aside to rest without disturbance the scars and divisions of the past. [Applause on the Democratic side.] If he had read that patriotic utterance of that distinguished gentleman he would not have reiterated the bright epigram with which in the heat of a five-minute debate Mr. Garfield had electrified the House.

There is no danger that the Democratic House will attempt to starve this Government. If it has no higher motive than mere partisan advantage, it would not do so. It expects to have control of it soon and to use these appropriations itself. It will make every appropriation essential for the proper and economical conduct of the Government.

But it will commence now, and, so far as it has the power, it will eliminate useless and unnecessary offices that have encumbered the Public Treasury so many years. [Applause.] Gentlemen will have an opportunity to vote on some of these questions. They will have an opportunity to vote on the question which their distinguished long-time leader offered to the bill and had adopted in the late hours of the afternoon yesterday. We will see how many Republicans will vote on a roll call to increase the compensation of their own employees in this House.

Certain methods are well understood. Such attempts to embarrass the majority by offering amendments that men can not be induced to vote for on record if you held before them all the wealth of Crœsus will not accomplish much.

The provisions made in order by this rule will be debated when they are reached. The Committee on Appropriations has not committed itself, so far as any provision is concerned, that it is not willing to discuss and debate them. It is as ready to accept recommendations as to make them. Certain important reforms in the administration of the public service are essential; they are proposed in the bill; this is the only way they can be considered by the House; and I favor considering them and enacting them into law. [Applause.]

The SPEAKER. The time of the gentleman from New York has expired. All time has expired. The question is on the adoption of the resolution.

Mr. MANN. And on that, Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 141, nays 101, answered "present" 5, not voting 144, as follows:

YEAS—141.

Adamson	Dixon, Ind.	Jacoway	Rubey
Aiken, S. C.	Driscoll, D. A.	Johnson, S. C.	Rucker, Colo.
Alexander	Edwards	Jones	Russell
Allen	Ellerbe	Kinkead, N. J.	Sabath
Ansberry	Evans	Korbly	Sharp
Ashbrook	Fergusson	Lamb	Sherley
Ayres	Finley	Lee, Ga.	Sherwood
Barnhart	Fitzgerald	Lee, Pa.	Sims
Beall, Tex.	Flood, Va.	Lever	Sisson
Blackmon	Floyd, Ark.	Levy	Slayden
Boehne	Foster	Lobeck	Smith, Tex.
Booher	Gallagher	McCoy	Stanley
Borland	Garner	McDermott	Stedman
Brown	Garrett	McKellar	Stephens, Miss.
Buchanan	Glass	Maguire, Nebr.	Stephens, Tex.
Bulkley	Godwin, N. C.	Moon, Tenn.	Stone
Burke, Wis.	Goeke	Morrison	Sulzer
Burnett	Goodwin, Ark.	Moss, Ind.	Sweet
Byrnes, S. C.	Graham	Murray	Talcott, N. Y.
Byrns, Tenn.	Gray	Neeley	Taylor, Ala.
Candler	Gregg, Pa.	Oldfield	Taylor, Colo.
Cantrill	Gregg, Tex.	Padgett	Thayer
Carlin	Hamilton, W. Va.	Page	Townsend
Carter	Hamlin	Palmer	Tribble
Claypool	Hammond	Pepper	Turnbull
Clayton	Hardy	Peters	Underhill
Cline	Harrison, Miss.	Post	Underwood
Collier	Hay	Pou	Watkins
Conry	Hayden	Rainey	White
Cullop	Heflin	Rauch	Wickliffe
Daugherty	Helm	Redfield	Wilson, Pa.
Davis, W. Va.	Henry, Tex.	Reilly	Witherspoon
Dent	Holland	Richardson	Young, Tex.
Denver	Hughes, Ga.	Roddenbery	
Dickinson	Hull	Rothermel	
Dies	Humphreys, Miss.	Rouse	

NAYS—101.

Ainey	Anderson, Minn.	Bowman	Cary
Akin, N. Y.	Austin	Browning	Catlin
Ames	Berger	Cannon	Cooper

Copley	Helgesen	McKinley	Slemp
Currier	Henry, Conn.	McKinney	Sloan
Danforth	Higgins	McLaughlin	Smith, J. M. C.
Davis, Minn.	Howell	Malby	Speer
De Forest	Howland	Mann	Stephens, Cal.
Dodds	Hubbard	Martin, S. Dak.	Sterling
Driscoll, M. E.	Humphrey, Wash.	Mondell	Stevens, Minn.
Dyer	Kendall	Moore, Pa.	Sulloway
Esch	Kennedy	Morgan	Taylor, Ohio
Farr	Kent	Morse, Wis.	Thistlewood
Focht	Kinkaid, Nebr.	Mott	Tilson
Foss	Knowland	Murdock	Towner
French	Kopp	Needham	Volstead
Fuller	La Follette	Norris	Warburton
Gardner, N. J.	Langham	Nye	Wedemeyer
Good	Lawrence	O'Shaunessy	Wilder
Green, Iowa	Lenroot	Patton, Pa.	Willis
Hamill	Lindbergh	Pickett	Wilson, Ill.
Hamilton, Mich.	Loud	Powers	Young, Kans.
Harris	McCall	Pray	Young, Mich.
Haugen	McCreary	Prouty	
Hawley	McGuire, Okla.	Raker	
Hayes	McKenzie	Rees	

ANSWERED "PRESENT"—5.

Bartlett	Campbell	Guernsey	Macon
Burke, S. Dak.			

NOT VOTING—144.

Adair	Draper	Kahn	Randell, Tex.
Anderson, Ohio	Dupré	Kindred	Ransdell, La.
Andrus	Dwight	Kitchin	Reyburn
Anthony	Estopinal	Konig	Riordan
Barchfeld	Fairchild	Konop	Roberts, Mass.
Bartholdt	Faison	Lafean	Roberts, Nev.
Bates	Ferris	Lafferty	Robinson
Bathrick	Fields	Langley	Rodenberg
Bell, Ga.	Fordney	Legare	Rucker, Mo.
Bradley	Fornes	Lewis	Saunders
Brantley	Fowler	Lindsay	Scully
Broussard	Francis	Linthicum	Sells
Burgess	Gardner, Mass.	Littlepage	Shackleford
Burke, Pa.	George	Littleton	Sheppard
Burleson	Gillett	Lloyd	Simmons
Butler	Goldfogle	Longworth	Small
Calder	Gould	McGillicuddy	Smith, Saml. W.
Callaway	Greene, Mass.	McHenry	Smith, Cal.
Clark, Fla.	Griest	McMorran	Smith, N. Y.
Connell	Gudger	Madden	Sparkman
Covington	Hanna	Maher	Stack
Cox, Ind.	Hardwick	Martin, Colo.	Steenerson
Cox, Ohio	Harrison, N. Y.	Matthews	Stephens, Nebr.
Crago	Hartman	Mays	Switzer
Cravens	Heald	Miller	Taggart
Crumpacker	Hensley	Moon, Pa.	Talbott, Md.
Curley	Hill	Moore, Tex.	Thomas
Curry	Hinds	Nelson	Tuttle
Dalzell	Hobson	Olmsted	Utter
Davenport	Houston	Parran	Vreeland
Davidson	Howard	Patten, N. Y.	Webb
Dickson, Miss.	Hughes, N. J.	Payne	Weeks
Difenderfer	Hughes, W. Va.	Plumley	Whitacre
Donohoe	Jackson	Porter	Wilson, N. Y.
Doremus	James	Prince	Wood, N. J.
Doughton	Johnson, Ky.	Pujo	Woods, Iowa

So the resolution was agreed to.

The following additional pairs were announced:

Until further notice:

Mr. WEBB with Mr. STEENERSON.

Mr. SMITH of New York with Mr. SIMMONS.

Mr. RUCKER of Missouri with Mr. PAYNE.

Mr. MOORE of Texas with Mr. MILLER.

Mr. MARTIN of Colorado with Mr. LAFFERTY.

Mr. GEORGE with Mr. NELSON.

Mr. CRAVENS with Mr. GILLETT.

Mr. CONNELL with Mr. CURRY.

Mr. BELL of Georgia with Mr. CRAGO.

Mr. ADAIR with Mr. ANTHONY.

MESSAGE FROM THE PRESIDENT.

A message from the President of the United States, by Mr. Latta, executive clerk, announced that the President had approved and signed the following House bills:

On April 30, 1912:

H. R. 22580. An act to authorize the change of the names of the steamers *Syracuse* and *Boston;* and

H. R. 13988. An act to authorize the Director of the Census to collect and publish additional statistics of tobacco.

On May 3, 1912:

H. R. 18336. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war.

ROBERT W. ARCHBALD (H. DOC. NO. 730).

The SPEAKER laid before the House the following message from the President of the United States, which was read, ordered printed, and referred to the Committee on the Judiciary:

To the House of Representatives:

I am in receipt of a copy of a resolution adopted by the House on April 25, reading as follows:

Resolved, That the President of the United States be, and he is hereby, requested, if not incompatible with the public interest, to transmit to the House of Representatives a copy of any charges filed against Robert W. Archbald, associate judge of the United States Commerce Court, together with the report of any special attorney or agent appointed by the Department of Justice to investigate such charges, and a copy of any and all affidavits, photographs, and evidence filed in the Department of Justice in relation to said charges, together with a statement of the action of the Department of Justice, if any, taken upon said charges and report.

In reply, I have to state that, in February last, certain charges of improper conduct by the Hon. Robert W. Archbald, formerly district judge of the United States Court for the Middle District of Pennsylvania, and now judge of the Commerce Court, were brought to my attention by Commissioner Meyer, of the Interstate Commerce Commission. I transmitted these charges to the Attorney General, by letter dated February 13, instructing him to investigate the matter, confer fully with Commissioner Meyer, and have his agents make as full report upon the subject as might be necessary, and, should the charges be established sufficiently to justify proceeding on them, bring the matter before the Judiciary Committee of the House of Representatives.

The Attorney General has made a careful investigation of the charges, and as a result of that investigation has advised me that, in his opinion, the papers should be transmitted to the Committee on the Judiciary of the House, to be used by them as a basis for an investigation into the facts involved in the charges. I have, therefore, directed him to transmit all of the papers to the Committee on the Judiciary; but in my opinion—and I think it will prove in the opinion of the committee—it is not compatible with the public interests to lay all these papers before the House of Representatives until the Committee on the Judiciary shall have sifted them out and determined the extent to which they deem it essential to the thoroughness of their investigation not to make the same public at the present time. But all of the papers are in the hands of the committee and therefore within the control of the House.

WM. H. TAFT.

THE WHITE HOUSE, *May 3, 1912.*

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

Mr. JOHNSON of South Carolina. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the legislative, executive, and judicial appropriation bill (H. R. 24023).

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union with Mr. UNDERWOOD in the chair.

The CHAIRMAN. When the committee rose there was a point of order pending, made by the gentleman from Massachusetts [Mr. GILLETT], on lines 17 and 18, page 31, in reference to the Bureau of Manufactures and Trade Relations. Since the committee rose the House has adopted a rule that would make this provision in order, and the Chair therefore overrules the point of order.

Mr. DYER. Mr. Chairman, I desire to offer an amendment to line 3, page 32.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 32, line 3, strike out the figures "600" and insert in lieu thereof the figures "720."

Mr. FITZGERALD. Mr. Chairman, I make a point of order against that that it is new legislation and increases the compensation.

The CHAIRMAN. What is the provision of law in regard to it?

Mr. FITZGERALD. The current law is $600.

Mr. DYER. That is in the preceding appropriation bill. There is no law that fixes the salary at $600 a year.

Mr. FITZGERALD. Under the rules of the House where there is no general law authorizing the salary the appropriation in the preceding appropriation bill carries authority of law which is construed to be the law and any proposed increase is a violation of the rule.

The CHAIRMAN. The Chair sustains the point of order and the Clerk will read.

The Clerk read as follows:

Section 5 of the act of February 14, 1903, entitled "An act to establish the Department of Commerce and Labor," is repealed, and the duties therein prescribed in relation to the promotion and development of the commerce abroad for the manufactured and other products of the United States, including the gathering, compiling, publishing, and supplying of valuable and useful information in regard to industries and markets abroad shall hereafter devolve upon the Department of State, under such regulations as the Secretary of State may prescribe, and all laws inconsistent herewith are repealed.

Mr. MANN. Mr. Chairman, I move to strike out the paragraph.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 33, strike out the paragraph beginning with line 5 and ending with line 15.

Mr. MANN. Mr. Chairman, when we created the Department of Commerce and Labor a few years ago we provided in that department a Bureau of Manufactures.

Mr. JOHNSON of South Carolina. Will the gentleman from Illinois yield?

Mr. MANN. Certainly.

Mr. JOHNSON of South Carolina. I want to ask unanimous consent that this section of the bill be passed until the section dealing with the same proposition later in the bill is reached, for two reasons.

Mr. MANN. I am perfectly willing.

Mr. JOHNSON of South Carolina. The gentleman from Texas [Mr. BURLESON] has had special interest in these matters, and he will not be here until next Tuesday. It will save debating the matter twice.

Mr. MANN. I agree with the gentleman, but will the gentleman's request include the next paragraph as well as this one?

Mr. JOHNSON of South Carolina. In so far as it deals with the subject, let us debate it all at one time.

Mr. MANN. This paragraph and the one next to it which relates to the same subject?

Mr. JOHNSON of South Carolina. Yes; this section and the next section. Mr. Chairman, I ask unanimous consent that we pass, on page 33, the section beginning with line 5 and ending with line 15; also the section beginning with line 16 and ending with line 33, until we reach later in the bill sections dealing with the same subject matter under the Department of Commerce and Labor.

The CHAIRMAN. The committee has heard the request of the gentleman from South Carolina. Is there objection?

Mr. HUMPHREY of Washington. Mr. Chairman, reserving the right to object, I anticipate that we will, later this evening, reach page 62, which contains items in regard to the mints and assay offices. I would like to know if we can not agree that those items shall go over, and not consider them this afternoon.

Mr. FITZGERALD. When we reach that provision I think there will be no trouble in reaching an arrangement that will be perfectly fair to everybody.

Mr. JOHNSON of South Carolina. We want to read as much as possible of this bill this afternoon. Of course, if there are sections that will involve debate we will be very glad to pass them

Mr. HUMPHREY of Washington. I agree with the gentleman exactly, and that is all I want to do, but I desired to call the attention of the gentleman to the fact.

Mr. MOORE of Pennsylvania. Mr. Chairman, may I inquire what the understanding was. We can not hear over here.

The CHAIRMAN. The request of the gentleman from South Carolina is to pass the two paragraphs on page 33, commencing with line 5 and ending with line 23, until a similar provision in the bill relating to the same subject matter is reached. Is there objection? [After a pause.] The Chair hears none.

The Clerk read as follows:

TREASURY DEPARTMENT.

Office of the Secretary: Secretary of the Treasury, $12,000; three Assistant Secretaries of the Treasury, at $5,000 each; clerk to the Secretary, $2,500; executive clerk, $2,400; stenographer, $1,800; three private secretaries, one to each Assistant Secretary, at $1,800 each; Government actuary, under control of the Treasury, $2,250; clerks—one of class four, four of class three, two of class two; chief messenger, $1,100; assistant chief messenger, $1,000; three messengers, at $900 each; four messengers; in all, $60,510.

Mr. AUSTIN. Mr. Chairman, I move to strike out the last word.

I wish to call the attention of the gentleman having this bill in charge to the fact that this provision carries an appropriation of $12,000 for the Secretary of the Treasury; and as I am informed he is over 65 years of age. Does not the gentleman think we ought to include him in the class we are going to legislate out of office on account of age?

Mr. JOHNSON of South Carolina. The gentleman has not availed himself of the vast fund of information I gave the House this morning or he would not have asked that question.

Mr. AUSTIN. I did not happen to be present when this vast fund of information was turned loose on the House, but I will avail myself of the opportunity to read it in the RECORD tomorrow.

Mr. JOHNSON of South Carolina. I stated to the House there was a principle involved which we desired to discuss and not what the gentleman is talking about.

Mr. AUSTIN. Mr. Chairman, I can not see the policy or the justice of framing an appropriation that will legislate out of office men who have been devoting——

Mr. JOHNSON of South Carolina. Well, the gentleman does not know what he is talking about. I told the House this morning that we were going to strike out the 65 years and leave people eligible to reappointment as long as they live, if it is 120 years of age. [Applause.]

Mr. AUSTIN. Mr. Chairman, I beg the gentleman's pardon. I was not present and did not hear his assurance with reference to extending the age limit for filling public offices.

The CHAIRMAN. Without objection, the pro forma amendment will be considered as withdrawn.

There was no objection.

The Clerk read as follows:

Office of chief clerk and superintendent: Assistant and chief clerk, including $300 as superintendent of Treasury Building, who shall be the chief executive officer of the department and who may be designated by the Secretary of the Treasury to sign official papers and documents during the temporary absence of the Secretary and the assistant secretaries of the department, $4,000; assistant superintendent of Treasury Building, $2,500; clerks—four of class 4, 1 of class 3, 2 of class 2, 2 of class 1, 1 at $1,000, 1 at $900; 2 messengers; 3 assistant messengers; messenger boy, $360; storekeeper, $1,200; telegraph operator, $1,200; telephone operator and assistant telegraph operator, $1,200; chief engineer, $1,400; 3 assistant engineers, at $1,000 each; 8 elevator conductors, at $720 each, and the use of laborers as relief elevator conductors during rush hours is authorized; 3 firemen; 5 firemen, at $660 each; coal passer, $500; locksmith and electrician, $1,400; captain of the watch, $1,400; 2 lieutenants of the watch, at $900 each; 65 watchmen; foreman of laborers, $1,000; 2 skilled laborers, at $840 each; 2 skilled laborers, at $720 each; wiremen—one at $1,000, one at $900; 34 laborers; 10 laborers, at $500 each; 1 plumber, and 1 painter, at $1,100 each; plumber's assistant, $720 (in lieu of watchman-fireman, $720, Cox Building); 85 charwomen; carpenters—2 at $1,000 each, 1 at $720. For the Winder Building: Engineer, $1,000; 3 firemen; conductor of elevator, $720; 4 watchmen; 3 laborers, one of whom, when necessary, shall assist and relieve the conductor of elevator; laborer, $480; and 8 charwomen. For the Cox Building, 1709 New York Avenue: Two watchmen-firemen, at $720 each; and 1 laborer; in all, $170,460.

Mr. KOPP. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 35, line 19, strike out the word "three" at the end of the line and insert in lieu thereof the word "eight," and strike out the words "five firemen, at $660 each" in line 20.

Mr. JOHNSON of South Carolina. Mr. Chairman, I make the point of order against that.

The CHAIRMAN. Does the gentleman from South Carolina make the point of order that this is a change of existing law?

Mr. JOHNSON of South Carolina. Yes, sir; that it is an increase in salary over the current law.

The CHAIRMAN. The Chair sustains the point of order.

Mr. KOPP. Will the gentleman reserve his point of order?

Mr. JOHNSON of South Carolina. Oh, certainly, if the gentleman desires.

The CHAIRMAN. The Chair has sustained the point of order.

Mr. KOPP. But the gentleman reserved the point of order, Mr. Chairman.

Mr. JOHNSON of South Carolina. I do not want to cut the gentleman off.

Mr. KOPP. Mr. Chairman, I move to strike out the last word. If it is impossible in this House to get justice for poor laboring men, and gentlemen on the other side will not even reserve a point of order so one can present what is seemingly an injustice to these men, I think we have reached a plane in legislation that our constituents will not justify. Here, Mr. Chairman, is something that I conceive the Democratic majority, or at least some on that side of the aisle, want to correct, but those in charge of the bill apparently will not give ear even to have it explained. I would like to ask the gentleman in charge of the bill what law there is or what reason there is for carrying five firemen for this particular place at $660 each?

Mr. JOHNSON of South Carolina. Will the gentleman yield?

Mr. KOPP. Certainly.

Mr. JOHNSON of South Carolina. They are carried at those figures because that is what the law fixes them at.

Mr. KOPP. I think the gentleman is mistaken about the law fixing them at that amount, and I would like for him to produce the law. Now, Mr. Chairman, the law provides firemen at $720 each. This is the only place in this bill where firemen are asked to work at $55 a month. In the Post Office Department there are 17 firemen. They draw $720 per year. In the State War and Navy Building there are 10 firemen and they draw $720 per year. In this one place, because years ago these were put in as helpers, they are drawing but $55 a month. Mr. Chairman, I am not acquainted with the personnel of these places, although two years ago I did happen to know one man who worked there. They are white men, they are doing the work of firemen side by side with those who are drawing $720. Now, Mr. Chairman, with all our cry for economy, and I believe there is plenty of room for such economy, I do not believe we want to say to these five men that they must work for $55 a month in this day and age, and I did think, Mr. Chairman, this would be corrected in the present bill.

Last year I brought the matter up, and because I was unfortunately absent when it was reached in the bill I could not secure unanimous consent to return to it. As I stated a moment ago, I have no interest in the matter, but I believe as

legislators acting for 90,000,000 people that our constituents do not want us to attempt economy which is not real economy; that our constituents do not want us to ask hard-working, honest, white laboring men who are trying to honorably support their families in this day and age to work for $55 a month. I will ask any man on this floor whether he thinks a man with $55 a month can even pay the rent of a home to live in decently and furnish the necessaries of life. Now, this is only a raise of $5 a month and will make these firemen all the same, so the bill will be a harmonious bill from the beginning to the end, and all the firemen will receive $60 a month. Mr. Charman, knowing of these conditions, I would not feel I was doing my duty to the House if I did not present the facts as I know them.

Mr. DYER. Will the gentleman yield?

Mr. KOPP. Certainly.

Mr. DYER. I want to call the attention of the gentleman to page 35 of the bill, where it says, on line 20:

Five firemen, at $660 each; coal passer, $500.

Mr. KOPP. The amendment I have offered is at that very point, to strike out and make it eight firemen, at $720, which is an addition of $5 a month.

Mr. DYER. What about the coal passer?

Mr. KOPP. I do not desire to ask any man to give his exclusive time to the Government for $500 a year. I do not think the amendment will be adopted, because the gentlemen in charge of the bill are so magnanimous as to not reserve a point of order, but have already made it, and thus prevented the House from passing upon it.

Mr. DYER. I want to say to the gentleman in charge of the bill that when the Post Office bill was up we made an amendment to increase the salaries of laborers and watchmen to $700 and $720, the minimum; some of them at $840, but the minimum was raised to $700, recognizing, as we ought to recognize, that it is impossible in this day, when the cost of living has so increased, to ask a man to give all of his time to this Government, be he a laborer or watchman or coal passer or what, and pay him such a salary as $500 a year. Mr. Chairman, one of the greatest assets that this Government has to-day is in its personnel in the various departments of this Government, located mainly here in Washington, and to ask them to take less than they have been receiving, to reduce them $100 or so, is outrageous, and no man ought to ask that it be done. There is not a single increase of any man in the Government in this entire bill, excepting one, who was omitted or neglected to be corrected in the last appropriation bill. The gentlemen on that side know that the cost of living in the last two years has greatly increased. To-day to expect a man to rent a decent house and house his family, to provide something for them to eat and to wear, and to send them to school, and to rear them decently in this city of Washington, high as everything is, on the sum of $500 a year ought to be considered disgraceful.

Mr. BYRNS of Tennessee. Will the gentleman yield?

Mr. DYER. I will.

Mr. BYRNS of Tennessee. I want to say to the gentleman the committee has not cut any of these salaries. They are as they were estimated for by the heads of the departments.

Mr. DYER. The gentleman is a member of that committee, and he knows that the head of a department goes to this Committee on Appropriations with the fact staring him in the face that this Democratic House of Representatives wants to cut down salaries.

Mr. BYRNS of Tennessee. I want to say further that these salaries are what the gentleman's own party allowed to the various employees in the bill for the current year.

Mr. DYER. I will say to the gentleman, regardless of any party, it is wrong. I ask the gentleman if he is willing to vote for a man to rear his family upon $500 a year?

Mr. BYRNS of Tennessee. I do not remember that the gentleman made any complaint last year when this matter was up. I submit that the head of a department knows better what a laborer's services are worth than we do, because he is familiar with the work done by him.

Mr. DYER. If I had been here, I would have made it, Mr. Chairman. I think the gentleman from New York [Mr. FITZGERALD], the chairman of this great committee, knows it is outrageously unfair for a man to receive a salary of $500 a year or $600 a year. I ask the gentleman from New York if he does not think we ought to increase these salaries to the minimum of $720 for the laborer, the fireman, or a coal passer, working for the Government of the United States. The gentleman can not answer it, Mr. Chairman, satisfactorily to his own party or satisfactorily to this committee.

Mr. FITZGERALD. I know there is great activity and anxiety among the Republicans during this session of Congress to increase compensation of employees. For years we reported this bill, fixing in it the compensation originally fixed by the heads of the departments, and neither one of these energetic gentlemen raised his voice about the men who it is now claimed are underpaid. Now, in a hypocritical attempt to make it appear that the Democratic Party in its program of economy is doing an injustice toward Government employees, they are making motions that they know are not in order under the rules, and that they would not dare to make if the Republicans were in control, just for the purpose of giving vent to these eloquent periods. If the gentlemen have gratified their desire to make these statements, realizing that the Democratic Party has not reduced a single salary, with one or two exceptions that can be justified, and that in its own good time when it gets complete control of the Government, it will do that justice to the Government employees to which they are entitled and which, if they have not, has been refused for 16 years under complete Republican control, we will now proceed, I hope, to dispose of the public business without wasting our time.

Mr. DYER. Mr. Chairman——

Mr. KOPP. Mr. Chairman——

Mr. DYER. Mr. Chairman, I ask unanimous consent for one minute.

The CHAIRMAN. The gentleman from Missouri [Mr. DYER] asks unanimous consent to proceed for one minute. Is there objection? [After a pause.] The Chair hears none.

Mr. DYER. The Chairman of the Committee on Appropriations intimated that because the previous Congress had not seen fit to raise the salaries of these men, that the Republicans have no right now to say anything. I say, Mr. Chairman, that conditions have changed since then, and while I was not a Member of Congress then, if I had been I never would have voted to ask a man to give his whole time to this Government for $500 a year. The gentleman says that the Democratic Party will administer the Government along these lines in a short time. They may do so, but I have too much confidence in the decency and good sense of the American people to believe that they will turn the Government over to men who want these men to live upon such indecent wages as $500 a year.

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn.

Mr. KOPP. Mr. Chairman, I move to amend, on page 35, line 20, by striking out the words:

At $660 each.

Mr. JOHNSON of South Carolina. Let the amendment be stated from the desk.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 35, line 20, strike out the words "at $660 each."

Mr. FITZGERALD. Mr. Chairman, I make the point of order that that changes existing law.

The CHAIRMAN. The gentleman from New York [Mr. FITZGERALD] makes the point of order that this changes existing law. The Chair is informed that this bill is written in accordance with the existing law. If the gentleman from Wisconsin [Mr. KOPP] has anything to show that this is not a change of existing law, the Chair will be glad to hear him.

Mr. MANN. Mr. Chairman, the amendment which the gentleman has offered is to strike out certain language in the bill. There is no obligation on the part of the committee to retain everything in a bill which is reported here. The Appropriations Committee reports certain language in the bill. Now, if you wish to insert language in the bill, of course that would be subject to a point of order, but here is a proposition merely to strike out of the bill certain language contained therein. Certainly the Chair can not hold that the committee does not have the power under the rules to strike out a part of the bill?

The CHAIRMAN. Under that section of Rule XXI, known as the Holman rule, which authorizes a reduction, the Chair overrules the point of order and holds the motion in order.

Mr. FITZGERALD. This does not strike out any positions. It only strikes out a rate, an amount, and fixes the salary. If you strike that out, it changes the law. I think I can demonstrate that.

The CHAIRMAN. If the gentleman from New York desires to be heard on that, the Chair will be glad to hear him.

Mr. FITZGERALD. Under the law, if "$660" is stricken out the compensation paid to them is $720, unless the compensation be specifically fixed in the bill. The striking out of the $660 does not drop the firemen, but it increases their compensation by $60 a year. By taking off the limitation of $660 the salary will be paid under the general provision, which fixes the amount at $720.

Mr. MURDOCK. But it reduces the appropriations in this bill.

Mr. FITZGERALD. It does not. It increases them.

Mr. JOHNSON of South Carolina. Mr. Chairman, I call the attention of the Chair to section 2 of the bill.

Mr. MANN. After all, Mr. Chairman, the point is whether the rules are so constructed that the House can neither add to a provision reported from the Committee on Appropriations or subtract from it. Have we reached the point where the Committee of the Whole House on the state of the Union can do nothing except to let the bill be read from the Clerk's desk, and that you can not add to or subtract a word; that you can not add the word "the" or take away the word "a"? Are we so completely under the control of the Committee on Appropriations that we have no power to change a bill? Where is the rule that contains a provision which says you can not strike out a part of a bill that is reported? You can strike out an appropriation and you can strike out any word in the bill. What authority has the gentleman for saying that the rules are so provided under this administration of the House that the House can not even strike out the word "at"?

Mr. FITZGERALD. Nobody suggested that.

Mr. BARTLETT. Mr. Chairman——

The CHAIRMAN. The Chair is ready to rule.

Mr. BARTLETT. Just one suggestion, Mr. Chairman.

The CHAIRMAN. The Chair will hear the gentleman from Georgia [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, if the Chair will turn to section 2 of this bill, on page 137—a section which is now the law of the land—the Chair will observe that it provides that "the pay of telephone-switchboard operators, assistant messengers, firemen, watchmen, laborers, and charwomen provided for in this act, except those employed in mints and assay offices, unless otherwise specially stated, shall be as follows," and then it provides that the salary for telephone-switchboard operators, assistant messengers, firemen, and watchmen shall be at the rate of $720 per annum, and that the pay of laborers shall be at the rate of $660 per annum, so that if you strike out "$660," under the section of the bill, section 2, which is the present law of the land and the existing law, you give them $720 each, which would be an increase over the amount carried in the bill.

The CHAIRMAN. Does the Chair understand the gentleman from Georgia to say that the appropriation is made for these employees twice in this same bill?

Mr. BARTLETT. No, sir; I do not. I simply say that section 2 of the bill provides what they shall receive when not otherwise specifically provided for. Section 2 is the current law, the law of the land, so that it would be an increase from $660 to $720 if you strike out $660, because the bill provides and the bill carries the current law of the land, providing that the compensation shall be $720 when not otherwise specifically provided for.

Mr. MANN. Mr. Chairman, will the gentleman yield for a question?

The CHAIRMAN. Does the gentleman from Georgia yield to the gentleman from Illinois?

Mr. BARTLETT. Yes.

Mr. MANN. A while ago we had up a provision for the salary of the Secretary to the President, where the law fixes the salary at $5,000 and the appropriation act for the current year carried the amount at $7,500. Does the gentleman think it would be subject to a point of order if an amendment were proposed to leave it at $7,500.

Mr. BARTLETT. Yes.

Mr. MANN. Does the gentleman think when the law fixes a certain salary for a certain officer and the Congress appropriates more or less than that amount in a bill that it is subject to a point of order in the next session or the next Congress to fix the salary by law?

Mr. BARTLETT. Certainly not, if it is less. The law fixes the salary.

Mr. MANN. It does not make any difference whether it is more or less. Under the rules of the House the law fixes the salary. We may appropriate more or less, but the law fixes the salary, and if we strike out the salary, the officer is entitled to the salary fixed by law.

Mr. BARTLETT. That is exactly what I stated.

Mr. MANN. But it is not subject to a point of order.

The CHAIRMAN. The Chair will rule. The amendment offered by the gentleman from Wisconsin [Mr. KOPP] provides for striking out after the word "firemen," in line 20, page 35 of this bill, the words "$660 each." The Chair does not think that this amendment is directed at existing law. This House has the right to make an appropriation or refuse to appropriate for the salary of any man who is employed by the Government. If the Chair were to hold that it would be a change of existing law for the gentleman to move to strike out a line that carries an appropriation, it would prevent the House from refusing to appropriate for the salary of an officer who is on the pay roll of the Government. This House has repeatedly——

Mr. FITZGERALD. I wish to call the attention of the Chair to the fact that this is not the appropriation. The amendment is to strike out the rate at which the compensation is to be paid. If they desire to eliminate these laborers, the proper amendment would be to strike out "three laborers, at $660 a year," the word "at" being understood. Six hundred and sixty dollars is the rate of compensation.

The CHAIRMAN. Well, the Chair does not find that that differentiates the question of striking out the rate of compensation and the compensation.

Mr. FITZGERALD. If this rate be stricken out, another rate takes effect.

The CHAIRMAN. The Chair recognizes that. But it is within the power of the House, when it reaches the other rate, to strike that out. It seems to me it is necessary for the House to have control of the proposition as to whether it will pay the salary or not pay the salary. If there was nothing else in this bill except the "$660," to strike out the amount would clearly carry the salary with it. Now, there may be some other clause in this bill that fixes another salary, but that leaves it to the House to attend to that proposition when it reaches it in the proper order. The Chair must hold that the House has the authority to refuse to appropriate, if it desires to do so, and therefore overrules the point of order.

Mr. KOPP. Mr. Chairman, this will leave the bill, if the amendment should be adopted, in this shape: "Three firemen; five firemen," which would be the same as "eight firemen." The salary of firemen is fixed by law at $720 per year, or $60 per month.

Now, Mr. Chairman and gentlemen, it is immaterial to me what the House does. The gentleman from New York [Mr. FITZGERALD] attempted to found this upon a partisan basis by saying that gentlemen on this side of the House were anxious now to raise the salaries since his side of the House is in the majority.

Now, so far as I am concerned, I stood here last year and the year before and tried to correct this injustice. Here are five firemen, and the only firemen who have been asked to work for $55 per month side by side with other firemen drawing $60 per month. The gentleman from New York said a moment ago that the only changes they had made in raising salaries was to right wrong and wipe out injustice. I ask you gentlemen to wipe out one more injustice, and if you feel that your record for economy is so great that you can not afford to pay $5 per month for five hard-laboring white men trying to make an honest living for their families, why then vote against it. I feel that my duty is performed when I have presented for the attention of the House the facts of the case.

Mr. BYRNS of Tennessee. Will the gentleman yield?

Mr. KOPP. Certainly.

Mr. BYRNS of Tennessee. Does not the gentleman think that the heads of the department, who made the estimates for the firemen and the coal passers and other unskilled employees, know about what their services are worth?

Mr. KOPP. If that were true I do not know how the Committee on Appropriations has cut this bill down $2,000,000.

Mr. BYRNS of Tennessee. We have not reduced the salaries.

Mr. KOPP. You have cut out a lot of things that the department had estimated for, and if the gentleman is correct that they know best, why should the Committee on Appropriations refuse to follow the estimates?

Mr. BYRNS of Tennessee. The gentleman misunderstood my question. My question was whether or not the heads of the departments did not know better what the individual services of certain employees were worth than the gentleman from Wisconsin.

Mr. KOPP. I will answer the gentleman's question by asking another. Does not the department know about the number of watchmen required better than the Committee on Appropriations?

Mr. BYRNS of Tennessee. Not necessarily, especially since it appears in the hearings had by the committee that there are two or three times as many as are necessary, a fact which was not seriously controverted.

Mr. KOPP. I do not care what the estimates are, if we find that men are asked to work for a great Government at wages that are not living wages, I do not believe we can shift that responsibility onto the heads of the departments or anyone else. It is our duty to see that justice is done to all, and especially those who are not in a position to help themselves.

Mr. MANN. Mr. Chairman, just a word. I remember last year when the gentleman from Wisconsin [Mr. KOPP] called attention to this case, and at that time, I think, it was generally understood in the House, and expression was given to it privately, that if the facts were disclosed, as the gentleman, in his enthusiasm, had stated, that it would be corrected another year. My understanding was that the department itself would recommend an increase of salary to these firemen. I do not know whether the estimates were made for an increase or not. I am told that these are the only white firemen in the Government service in Washington who are working at this small salary, and they are working side by side with other firemen who receive a larger salary. In the first place, it was either inadvertence or lack of money that their salary was placed at this sum, and it was never called to the attention of Congress until a year or two ago, when it was stated among a number of us privately—I think, on both sides of the House—that if that was the situation we would endeavor to correct it another year.

Mr. BARTLETT. Will the gentleman yield?

Mr. MANN. Certainly.

Mr. BARTLETT. Does the gentleman remember what the last appropriation bill carried?

Mr. MANN. The same as this, $660.

Mr. BARTLETT. And the bill before that?

Mr. MANN. I do not remember anything about the matter until last year. I remember the gentleman from Wisconsin last year called attention to this case and there was considerable discussion in regard to it.

Mr. BARTLETT. The last appropriation bill is the same as this.

Mr. MANN. I so stated; it was not changed then, but it was discussed on the floor at that time and among gentlemen privately, I think, on both sides, it was agreed that it ought to be corrected.

Mr. BARTLETT. As far as I am concerned these are the people whose salaries I should like to see raised.

Mr. FOSTER. As I understand, they do the same work as the others, who get $720?

Mr. MANN. Yes; they work side by side; there is no difference at all. This is not an ordinary case.

Mr. FOSTER. Then I think they ought to have the same pay.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin.

The question was taken; and on a division (demanded by Mr. DYER) there were—ayes 45, noes 16.

So the amendment was agreed to.

Mr. DYER. Now, Mr. Chairman, I offer the following amendment, to take care of my coal passer. I move to strike out the figures "500," in line 20, page 35, and insert the figures "600."

Mr. FITZGERALD. To that I make a point of order.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read as follows:

Office of Comptroller of the Treasury: Comptroller of the Treasury, $6,000; Assistant Comptroller of the Treasury, $4,500; chief clerk, $2,500; chief law clerk, $2,500; 9 law clerks revising accounts and briefing opinions—1 at $2,100, and 8 at $2,000 each; expert accountants—6 at $2,000 each; private secretary, $1,800; clerks—8 of class 4, 3 of class 3, 1 of class 2; stenographer and typewriter, $1,400; typewriter-copyist, $1,000; 2 messengers; assistant messenger; 1 laborer; in all, $73,460.

Mr. JOHNSON of South Carolina. Mr. Chairman, I offer the following amendment:

The Clerk read as follows:

Page 41, after line 2, insert the following:

"Hereafter the administrative examination of all public accounts, preliminary to their audit by the accounting officers of the Treasury, shall be made as contemplated by the so-called Dockery Act, approved July 31, 1894, and all vouchers and pay rolls shall be prepared and examined by and through the administrative heads of divisions and bureaus in the executive departments and not by the disbursing clerks of said departments, except that the disbursing officers shall make only such examination of all vouchers as may be necessary to ascertain whether they represent legal claims against the United States."

Mr. MANN. Mr. Chairman, this is such an important matter in one way that I wish the gentleman from South Carolina would briefly tell us what this does so that we can be informed about it.

Mr. JOHNSON of South Carolina. Mr. Chairman, when the subcommittee was engaged in making up the bill we found a marked difference in the cost of disbursing money in the different departments. For instance, the Treasury Department which disburses about $17,000,000, does it this year at a cost of about $15,000. We found that the Department of Justice, which disburses only about $4,000,000, and that largely in salaries, cost very much more, possibly twice as much, as to disburse the money in the Treasury Department.

And so we examined the facts and found that there was no comparison to be drawn between the expense in the different departments. We thereupon inquired into it. We found this state of affairs. The Dockery Commission, which went through all the departments very thoroughly a few years ago, in order to do away with the cumbersome system of auditing, provided that the auditing should take place in the office of the auditor for the respective departments, but that there should be an administrative audit in the bureaus; the auditors themselves and the bureaus both having the right to appeal to the Comptroller of the Treasury for his construction of the law before they took any steps to expend the appropriation or the matters might be appealed to him after action was taken.

So the Dockery Commission, in order to prevent this duplicating of auditing, the work in the auditors' offices was combined, and it had to go through the channel and to the Comptroller of the Treasury before the money was paid. They provided that the bureau should have an administrative audit. Nobody is better qualified to certify to a disbursing officer that certain people are on the pay roll at a certain sum a month and are entitled to receive a certain amount than the man at the head of the bureau himself.

Now, when we looked into the question of this marked difference in the cost of disbursing money we found that the disbursing officers had from time to time come to the Committee on Appropriations and asked for so many clerks of class 4, so many of class 3, and so on, and that they had built around themselves a complete and perfect auditing system—that is, in some of the departments—so that they ceased to be disbursing officers and became auditing and disbursing officers.

We sent for the Comptroller of the Treasury and we went over this whole question with him and got the benefit of his views as to the trouble. We had the benefit of his suggestions as to what would cure the trouble, and in consequence of the conferences we had with the Comptroller of the Treasury and in consequence of the investigation which I have endeavored to call to your attention, we framed this amendment, submitted it to the full Committee on Appropriations, and I think it meets with the unqualified approval of every member of the committee.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MANN. Mr. Chairman, I ask that the gentleman have five minutes more.

The CHAIRMAN. Without objection, the time of the gentleman will be extended five minutes.

There was no objection.

Mr. MOORE of Pennsylvania. Will the gentleman yield?

Mr. JOHNSON of South Carolina. Yes.

Mr. MOORE of Pennsylvania. One of the evils that is complained of is in the settlement of accounts against the Government, the auditors claiming to be behind in their work. Does the gentleman believe that this amendment, as suggested by the committee, will facilitate the settlement of accounts of individuals against the Government?

Mr. JOHNSON of South Carolina. I think it will expedite it, because instead of having an auditing office in each department we simply require the disbursing officer to ascertain to his satisfaction that it is a legal claim and that there is an appropriation to pay it when the warrant goes to him, not that he will, like an Auditor or Comptroller of the Treasury, go to examining the facts and inquire into the expediency and propriety of the claim.

Mr. MOORE of Pennsylvania. Mr. Chairman, the gentleman is aware that some claims are held up for many years, and frequently when efforts are made to settle, either by law or otherwise, the argument is made that there is not sufficient help to make up the accounts or they are not accessible. Of course we hear a good deal about circumlocution in Government offices, and I would like to know if it is the gentleman's interpretation of his amendment that its passage would mean that accounts with the Government will be settled more expeditiously?

Mr. JOHNSON of South Carolina. I believe that will be the effect.

Mr. CANNON. Will the gentleman yield to me right there?

Mr. JOHNSON of South Carolina. Certainly.

Mr. CANNON. I think there is no great complaint about the payment, if the gentleman will allow me, for money that is due by the Government for services performed. The complaint to which the gentleman refers, I think, is in the matter of claims that rest against the Government, many times not under contract, many times and most times growing out of the Civil War, the war for the Union, with two and a half million men in the field, matters of bounty pay and settlement, and in the main they were paid. But there is a class of claims arising from future legislation and future decision; and I may say further, if the gentleman will indulge me, that there are lawsuits pending all the time in the Court of Calims and legisla-

tion touching longevity and touching many things where the people have been paid for their services, but these claims come by virtue of future legislation or judicial determination, and in a Government such as ours it takes time. I do not believe this amendment will materially affect that class of business which is in large part a business that is ordinarily disposed of by the Auditor for the War Department.

Mr. JOHNSON of South Carolina. I meant to say that in the case of claims that are well founded in law and are payable out of current appropriations there would be less delay in having the bureau make such audit and pass it on for payment rather than to make an exhaustive audit.

Mr. CANNON. In other words, as I understand the gentleman, he desires to have an administrative audit, so called, and to cut out any other audit substantially until it reaches the Treasury Department and the auditor's office?

Mr. JOHNSON of South Carolina. Yes.

The CHAIRMAN. The question is on the adoption of the amendment offered by the gentleman from South Carolina.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

For expenses of collecting the corporation tax authorized by the tariff act approved August 5, 1909, $150,000.

Mr. BARTLETT. Mr. Chairman, I move to strike out the last word, in order to ask the chairman of the committee in regard to the $150,000 for collecting the corporation tax. Does that contemplate suits that will have to be brought to enforce the collecion of penalties against corporations that have failed to make their returns in the time and manner required by law?

Mr. JOHNSON of South Carolina. No; the Commissioner of Internal Revenue stated, in response to a question as to why he wanted such a large increase, that it was important for the Treasury to send special agents to examine the books of large corporations. It is not for the purpose of bringing suit, but it is for the purpose of making minute examinations of corporations which would otherwise escape the taxation, and he said, if I may add, that if we would give him the money he asked for that he felt he could assure the committee that for every dollar of that money it would result in the collection of $25 for the Treasury that would otherwise not be collected.

Mr. BARTLETT. Now, Mr. Chairman, I am familiar with that statement, and I made the inquiry and moved to strike out the last word in order to be recognized for this purpose. Mr. Chairman, there are some 8,000 corporations that are now subject to penalties for failure to make returns or to make returns by the 1st of March under the first enforcement of the corporation-tax law. There may be some that ought to be punished. The law provided that if any corporation that was subject to the tax failed to make a return by the 1st of March that the Commissioner of Internal Revenue should ascertain what their returns should be and automatically add 50 per cent to the tax that they did return or should have returned; or in case a corporation returns its tax on the 2d day of March, the Commissioner of Internal Revenue added as a part of the tax the 50 per cent, and it became part of the tax. Also, there was a provision in the bill which made it a criminal offense not to make the return by the 1st of March. There are quite a number of small corporations that are not subject to this tax that failed to make return, and they became liable to be indicted and prosecuted, or their officers, under one of the sections of the law.

The Secretary of the Treasury is authorized by the general law to settle and compromise with that particular class of cases. There are a number of corporations, small corporations, I know of my own knowledge in my own district, while there is quite a number that would not be subject to the tax, yet they were compelled, in order to settle a threatened prosecution, to pay to the Government $25—some less, but not over $25—some escaped by the payment of $10 or $15, because they failed to make the return on the 1st of March, not that they were subject to the tax, but showing that they were not subject to the tax. I have one or two cases in my district to which my attention has been called in which the return reached the internal-revenue collector's office in Atlanta on the 2d of March, and they have been compelled to pay the 50 per cent additional tax as a penalty or the 50 per cent additional tax as a penalty for failure to make the returns on the 1st of March, and it can not be remitted by the Secretary of the Treasury, although in several cases which I presented to him he was desirous of being able to remit the penalty. I call the attention of the committee to this because of this question. There are bills pending, and I think there ought to be some legislation which will permit the Secretary of the Treasury to compromise or to remit these penalties as well as to settle the so-called quasi criminal offenses, and that is the reason I asked the question, in order that the attention of the committee might be directed to it. I hope the legislation will be enacted in some way that will not permit these hardships, not upon the people who seek to evade the law, not upon people who are subject to the tax, but simply through some sort of misfortune or accident they were prevented from the return being made by the 1st of March, or did not make the return because they were not subject to the provisions of the law.

The CHAIRMAN. Without objection, the pro forma amendment will be considered as withdrawn.

There was no objection.

The Clerk read as follows:

Office of assistant treasurer at Philadelphia: Assistant treasurer, $5,000; cashier, $2,500; paying teller, $2,250; coin teller, $2,000; vault clerk, $1,900; bookkeeper, $1,800; assorting teller, $1,800; receiving teller, $1,700; redemption teller, $1,600; clerks—1 at $1,600, 2 at $1,500 each, 3 at $1,400 each, 1 at $1,300, 5 at $1,200 each, 1 at $1,000; chief guard, $1,100; 6 counters, at $900 each; 6 watchmen, at $720 each; in all, $48,470.

Mr. MOORE of Pennsylvania. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Pennsylvania offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 61, line 10, after the words "paying teller," at the end of line 9, strike out "$2,250" and insert "$2,300."

Mr. MOORE of Pennsylvania. I think perhaps this is a clerical error. I do not believe the committee intended to save that $50 difference in salary. It looks to me like a clerical error.

Mr. JOHNSON of South Carolina. What salary is that?

Mr. MOORE of Pennsylvania. You have fixed the salary of the paying teller at $2,250.

Mr. BARTLETT. Mr. Chairman, I ask unanimous consent to have the amendment reported again.

The CHAIRMAN. Without objection, the amendment will be again reported.

The amendment was again reported.

Mr. MOORE of Pennsylvania. This is a difference of $50. I question if that is what the committee meant.

Mr. FITZGERALD. It was on the recommendation of the department.

Mr. MOORE of Pennsylvania. To save this $50?

Mr. JOHNSON of South Carolina. For the benefit of the gentleman from Pennsylvania [Mr. MOORE] and all those in the House who are interested in the subtreasuries, I wish to make this statement. The Secretary of the Treasury has sent from his office certain experts to all of the subtreasuries throughout the United States. He endeavored to standardize the work and to equalize the compensation, and he sent down to the committee as the result of the labors of his department in investigating all the subtreasuries these estimates. In a few instances—but I think very few, maybe half a dozen—there was a slight change in the compensation of some of the officials. I did not remember at the time the particular one to which the gentleman refers, and whatever changes were made have been very slight, and it is done by the Secretary in the belief that he was treating them all alike for the same kind of work, taking into consideration the size of the town and the compensation for like services.

Mr. MOORE of Pennsylvania. I notice the compensation for paying tellers varies. It is $2,000 in New Orleans, for instance, and $3,000 in New York.

Mr. JOHNSON of South Carolina. Yes, sir.

Mr. MOORE of Pennsylvania. And $2,250 in Philadelphia, according to this bill, but the difference was so slight that I thought, perhaps, it was a typographical error.

Mr. JOHNSON of South Carolina. I stated a moment ago that the information brought to our committee was that they tried to adjust these salaries so as to be absolutely fair to every man, treating them all alike, taking into consideration the conditions of their work and the amount of responsibility, the amount of money handled, and all that sort of thing. They told us how much each man handled in New York, Boston, and different places, but I do not remember the amounts.

Mr. MOORE of Pennsylvania. So it is on the recommendation of the department?

Mr. JOHNSON of South Carolina. We wrote this as we were asked to write it.

Mr. MOORE of Pennsylvania. The change is made on the recommendation of the department itself?

Mr. JOHNSON of South Carolina. Yes, sir. There has been no change made at the instance of the committee. Whatever changes were made were made on the recommendation of the Secretary of the Treasury.

Mr. BARTHOLDT. Will the gentleman yield to an interruption?

Mr. JOHNSON of South Carolina. Certainly.

Mr. BARTHOLDT. I notice that the salary of the Assistant Treasurer at St. Louis was reduced a very small amount, $100, but I would like to ask the gentleman just why that was done? I see that the salary of the subtreasurer at New Orleans and at San Francisco is fixed at exactly the same amount as the salary at St. Louis, and I know that the volume of business done in the city of St. Louis is much greater than that at either San Francisco or New Orleans. Now, if, as the gentleman says, these salaries have been adjusted in accordance with the volume of business, the salary at St. Louis should certainly be increased.

Mr. JOHNSON of South Carolina. It has not been reduced.

Mr. BARTHOLDT. It has been reduced $100.

Mr. JOHNSON of South Carolina. Oh, no.

Mr. BARTHOLDT. I understood it had been reduced $100.

Mr. MANN. The clerks that have been carried at $900, I think, are now carried at $1,100.

Mr. Chairman, in reporting this bill the committee have made a number of changes in the office of assistant treasurer at various cities, as stated by the gentleman, in accordance with the organization and reorganization plan of the department. I called attention a few years ago to the gross inaccuracy and unfairness of corresponding salaries in different subtreasuries. And evidently the department this time has endeavored to make recommendations to put salaries upon a somewhat more reasonable and fairer basis as compared with the work in the different cities. The gentleman from Pennsylvania [Mr. MOORE] calls attention to a reduction of salary of $50 in one instance. In Boston they have reduced the salary of a vault clerk from $2,000 to $1,800.

Mr MOORE of Pennsylvania. I observe the Boston paying teller is rated at $2,250.

Mr. MANN. The paying teller was $2,500, and it was reduced to $2,250. In New York the assistant cashier is reduced from $4,200 to $4,000, and the vault clerk from $3,200 to $3,000, and various changes are made there besides the one to which the gentleman has called attention. In New Orleans the receiving teller is reduced from $2,000 to $1,800.

Mr. MOORE of Pennsylvania. That is a reduction of——

Mr. MANN. That is a reduction of $200. Some years ago I called the attention of the House to this situation: That some official in one city which transacted one-third of the business was paid a higher salary than a corresponding official in another city transacting three times the business in the subtreasury, which, of course, was something that had grown up through a course of years and through the raising of salaries, probably on the floor of the House or in the Senate, or perhaps in the department, because some person had been in the service for a number of years and they wanted to increase his salary temporarily. Of course when he went out his successor received the same salary. This reorganization carried in the bill is certainly a desirable and fair thing to do in the effort, at least, to put the salaries in the different cities somewhat on the same basis for the same work.

Mr. FITZGERALD. In some instances, while there was some slight decrease, not very great, in others there were increases to equalize the service. The committee accepted the recommendation of the department.

Mr. MANN. At Boston there is a decrease of $60. In Chicago there is an increase of $2,500 altogether.

Mr. DYER. What is the decrease at St. Louis?

Mr. MANN. Last year it was $40,540; this year it is $41,060.

Mr. BARTHOLDT. Mr. Chairman, will the gentleman yield there?

Mr. MANN. Yes.

Mr. BARTHOLDT. I notice that the salary of the paying teller at San Francisco, for instance, is $2,400 and the salary of the paying teller at St. Louis is $2,000.

Mr. MANN. Yes.

Mr. BARTHOLDT. Now, if the salaries, as my friend from South Carolina [Mr. JOHNSON] says, have all been adjusted on an absolutely equitable basis, I do not see why there should be a difference in those two salaries, particularly when you take into consideration the fact that the volume of business done at St. Louis is greater than that done at San Francisco.

Mr. MANN. I will say to the gentleman that the paying teller at San Francisco has always acted also as assistant cashier, and he has additional duties to perform over those of the paying teller at St. Louis.

Mr. BARTHOLDT. The bill does not state it.

Mr. MANN. But that is the fact. He always has been assistant cashier and acts as assistant cashier in addition to acting is paying teller. The San Francisco office was originally the highest-paid office in the country, a fact growing out of conditions prevailing there, probably, at the time when the office was created. But the salaries at San Francisco have been reduced since then from time to time. The gentleman can not always tell by the title in these Treasury offices just what an official performs, because a person performing the same duties in one office may be called by one title in one office and by another title in another office. They do not string out the titles so as to include all the duties that are performed.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HAYES. Mr. Chairman, I want to say, in corroboration of what the gentleman from Illinois has stated, that the officer at San Francisco is really filling two positions, at a salary of $2,400. The gentleman from Missouri [Mr. BARTHOLDT] is mistaken, I think, in stating that the volume of business done in St. Louis is larger than that done at San Francisco.

Mr. BARTHOLDT. I have seen the figures recently, and they are certainly larger than at San Francisco.

Mr. HAYES. They are not very much larger, if at all.

Mr. BARTHOLDT. I have not the figures here; but that is my impression.

Mr. HAYES. I think the officers in the Subtreasury at San Francisco are doing substantially what the officers of the Subtreasury at St. Louis are doing.

Mr. BARTHOLDT. The gentleman will see from the titles that there is a great deal of difference.

Mr. HAYES. As stated by the gentleman from Illinois [Mr. MANN], some of the officers at the San Francisco Subtreasury are filling two positions.

Mr. MANN. If the gentleman will permit, I will say that the paying teller at Chicago receives $2,000, and still he probably does 10 times as much work in that capacity as the officer at San Francisco. And yet the officer at San Francisco is entitled to the salary he receives for the work he does, because he has additional work besides that of merely paying out money through the window.

Mr. DYER. Mr. Chairman, may I ask the gentleman a question?

The CHAIRMAN. Does the gentleman from South Carolina yield to the gentleman from Missouri?

Mr. JOHNSON of South Carolina. Certainly.

Mr. DYER. I notice here, on line 24 of page 61, "two janitors, at $600 each." I notice in line 15 of the same page "six watchmen, at $720 each." There is no provision in that paragraph as to the subtreasury at Philadelphia for janitors. Do I understand that those who do janitors' work at the subtreasury at Philadelphia and also at the subtreasury in New York and in other subtreasuries are carried as watchmen?

Mr. JOHNSON of South Carolina. I do not know under what title they are carried.

Mr. DYER. Well, I would like to ask the gentleman from Illinois [Mr. MANN] about that.

Mr. MANN. I can give the gentleman some information on the subject. While the subtreasury at Chicago has a great many more rooms to look after and a great deal more business to transact, the bill carries only one janitor for Chicago and two for St. Louis. The fact is, however, that a proportion of the work done by the janitors in public buildings is done not directly through this appropriation, but through an appropriation for the custodian of the public building, and it does not necessarily indicate that all the janitor work is done by these officials. The custodian of the building under the Treasury Department has control of the janitors.

Mr. MOORE of Pennsylvania. In Philadelphia it is the collector of the port.

Mr. DYER. Do not these watchmen do janitor work?

Mr. MANN. I do not know whether they do or not.

Mr. MOORE of Pennsylvania. The care of building in Philadelphia is under the control of the collector of the port.

Mr. DYER. What I want to call to the attention of the gentleman is this: Here in the subtreasury at St. Louis two men are carried as janitors at $600 each, whereas they are carried in the subtreasuries at Philadelphia and New York and other places as watchmen at $720 each. I think it is no more than fair that these two janitors at St. Louis who receive $600 each should be carried at the same amount, namely, $720; and I ask the gentleman from South Carolina [Mr. JOHNSON] if he will agree to that amendment?

Mr. MANN. Will the gentleman yield for a question?

The CHAIRMAN. The Chair will state to the gentleman from Missouri that it is not in order to offer an amendment to that item at this time.

Mr. MANN. Will the gentleman from Missouri yield?

Mr. DYER. Yes.

Mr. MANN. If you want to increase the salary of the janitors at St. Louis, then you want also to increase the number

of janitors at Chicago, so that if you want to make the salary at St. Louis $720, those two should not be expected to do only the work of one janitor at Chicago. I know that we are fast in Chicago, but I did not know we were so much faster as that would indicate.

Mr. BARTHOLDT. We have one more watchman.

Mr. FITZGERALD. They need it at Chicago. [Laughter.]

Mr. MANN. We have not any more. We have three watchmen and you have two watchmen, a guard, and two janitors.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. MOORE].

The question was taken, and the amendment was rejected.

Mr. MOORE of Pennsylvania. Mr. Chairman, I offer the following amendment:

Amend, page 61, line 15, after the words "at $900 each," and preceding the word "watchmen," strike out "six" and insert "seven."

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Pennsylvania [Mr. MOORE].

The Clerk read as follows:

Amend, page 61, line 15, after the words "at $900 each," and preceding the word "watchmen," strike out "six" and insert "seven."

Mr. MOORE of Pennsylvania. Mr. Chairman, in explanation of the amendment, I desire to state——

Mr. JOHNSON of South Carolina. Mr. Chairman, I make a point of order against that amendment on the ground that it changes existing law.

The CHAIRMAN. The Chair will ask the gentleman from South Carolina if the present law provides for six watchmen?

Mr. JOHNSON of South Carolina. It does.

The CHAIRMAN. The Chair sustains the point of order.

Mr. MOORE of Pennsylvania. Mr. Chairman, I ask the gentleman to reserve his point of order for a moment until I can discuss the question.

The CHAIRMAN. The Chair has already decided the point of order.

Mr. MOORE of Pennsylvania. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman from South Carolina made the point of order, and the Chair ruled on it.

Mr. MOORE of Pennsylvania. May I not know what the point of order is?

The CHAIRMAN. The point of order is that the existing law provides for six watchmen.

Mr. MANN. I understand it does not provide for six watchmen at Philadelphia. I understand it provides for seven watchmen.

The CHAIRMAN. The Chair asked the gentleman from South Carolina if his point of order was that the amendment changed existing law, and the Chair understood him to answer that it did.

Mr. MOORE of Pennsylvania. The existing law provides for seven watchmen at Philadelphia.

Mr. JOHNSON of South Carolina. Mr. Chairman, I withdraw the point of order.

The CHAIRMAN. The gentleman from South Carolina withdraws the point of order. The Chair was misled as to the condition.

Mr. MOORE of Pennsylvania. I want to ask the gentleman from South Carolina if the same condition holds in regard to these watchmen as obtained in regard to the paying teller; whether this recommendation for a reduction in the number of watchmen comes from the department? This is a case of taking away a man's position. The other was a matter of adjusting salaries. I think I am justified in offering the amendment with a view of trying to save this place to the employee, if possible. Was this reduction of the force recommended by the department?

Mr. JOHNSON of South Carolina. The committee was so thoroughly impressed with the fact that the Treasury Department had made an honest effort to examine into these subtreasuries and to equalize the pay and adjust the force to the work done that we accepted these estimates as they came down from the department. We believe they are trying to do right, and we believe they did do right, and we gave them what they asked for.

Mr. MOORE of Pennsylvania. Then the department made a recommendation that the force be reduced from 7 to 6?

Mr. JOHNSON of South Carolina. Yes.

Mr. MOORE of Pennsylvania. And it is not at the suggestion of the committee?

Mr. JOHNSON of South Carolina. No; we acted on the suggestion of the department.

Mr. MOORE of Pennsylvania. The gentleman understands that I must do the best I can to hold the place. If the department recommended it I will have to submit the matter to the House. We feel that we need this watchman at the subtreasury. There is a large amount of money in the treasury, and these men have to make relays to protect the deposits. I hope the House will permit this watchman to remain and will adopt the amendment.

Mr. MANN. Will the gentleman yield for a question?

Mr. MOORE of Pennsylvania. Certainly.

Mr. MANN. Considering the fact that the business in the subtreasury at Chicago is much greater than it is in Philadelphia, what excuse can the gentleman offer for having six watchmen at Philadelphia when we only have three in Chicago?

Mr. MOORE of Pennsylvania. I will frankly admit that Philadelphia is a much more peaceful city than is Chicago, but occasionally the inhabitants of Chicago migrate to Philadelphia.

Mr. MANN. If that is the only excuse the gentleman offers I shall be compelled to vote against his amendment.

Mr. MOORE of Pennsylvania. Oh, I have stronger grounds than that. The gentleman asked his question in a humorous vein and I answered it in the same manner. This watchman is needed in Philadelphia for the protection of the money of the United States.

Mr. JOHNSON of South Carolina. I want the gentleman from Pennsylvania to understand that I made the point of order under a misapprehension of the number that the law provided.

Mr. MOORE of Pennsylvania. I understand that.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

Office of Assistant Treasurer at St. Louis: Assistant treasurer, $4,500; cashier, $2,500; paying teller, $2,000; receiving teller, $1,800; assorting teller, $1,800; change teller, $1,600; 3 clerks, at $1,500 each; coin teller, $1,200; bookkeeper, $1,500; 7 clerks, at $1,200 each; 2 clerks, at $1,100 each; 3 clerks, at $1,000 each; 3 clerks, at $900 each; 2 watchmen, at $720 each; 2 janitors, at $600 each; guard, $720; in all, $41,060.

Mr. DYER. Mr. Chairman, I would like to ask the gentleman from South Carolina why it was that they reduced two clerks from $1,200 last year to $1,100 this year? Was that recommended by the Secretary?

Mr. JOHNSON of South Carolina. Just for the same reason that I have explained in regard to all the subtreasuries. We believe that the Secretary of the Treasury, for his subordinates, made an earnest and honest effort to adjust the salaries on a fair basis, and adjust the force in all the subtreasuries, and whatever has been done in the matter of reducing anybody's compensation, if it has been reduced, was at the instance of the department.

Mr. DYER. The gentleman will agree that that is the fact, that two clerks with salaries of $1,200 have been reduced to $1,100?

Mr. JOHNSON of South Carolina. Yes; but we have followed the request of the department in doing it. We made no personal investigation of the St. Louis office.

Mr. DYER. Mr. Chairman, I suppose the gentleman will object, under the circumstances, to an amendment putting them back to $1,200?

Mr. JOHNSON of South Carolina. I should have to object.

Mr. DYER. Mr. Chairman, I offer the following amendment: Page 61, line 24, strike out the figures "600" and insert in lieu thereof "720." I hope the gentleman will not make a point of order to that.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Line 24, page 61, strike out the figures "600" and insert in lieu thereof the figures "720."

Mr. JOHNSON of South Carolina. To that, Mr. Chairman, I make a point of order.

The CHAIRMAN. Does the Chair understand that $600 is the current law?

Mr. JOHNSON of South Carolina. That is the current law.

Mr. DYER. Will the gentleman reserve the point of order until I ask a question? The current law provides that janitors shall get $660 a year, does it not?

Mr. JOHNSON of South Carolina. No; the janitor gets whatever compensation is fixed where he is provided for. If you change the compensation, you change his pay, of course. This was fixed, and this particular item is the current law not only as to number, but as to pay.

Mr. DYER. The gentleman knows that some time ago they got $500 in some places, and the pay has been increased on appropriation bills to $720.

Mr. JOHNSON of South Carolina. There is no law fixing the compensation of these officials, but their compensation depends on the law as it reads at the particular place they are provided for.

Mr. DYER. Does not the gentleman think that these salaries ought to be increased?

Mr. JOHNSON of South Carolina. The Secretary of the Treasury has investigated all of these officials and their salaries, and the committee has followed the recommendations.

The CHAIRMAN. The point of order is sustained, and the Clerk will read.

The Clerk read as follows:

For paper for interest, transfer, redemption, pension, and other checks and drafts for the use of the Treasurer of the United States, assistant treasurers, pension agents, disbursing officers, and others, $9,000.

Mr. JOHNSON of South Carolina. Mr. Chairman, I ask unanimous consent that we pass without prejudice over that portion of the bill beginning in line 12, page 62, "mint and assay offices," down to and including the bottom of page 65. These matters will provoke some discussion, and I have promised gentlemen interested in them not to take them up this afternoon.

The CHAIRMAN. The gentleman from South Carolina asks unanimous consent to pass without prejudice that portion of the bill beginning at line 13, page 62, to the bottom of page 65. Is there objection?

Mr. RAKER. Mr. Chairman, will the gentleman from South Carolina indicate that when the House meets the next time to consider this bill he will return the first thing and commence where we leave off to-day?

Mr. JOHNSON of South Carolina. I could not indicate when we will return to this section, but I will say to the gentlemen that no advantage will be taken of them.

Mr. FITZGERALD. Mr. Chairman, this afternoon a number of Members are absent. This bill will be continued, and the purpose will be to dispose of these matters as rapidly as possible. There will be no agreement not to take them up in the future. Members must be here when the bill is under consideration. The next time that the bill will come up will be next Tuesday.

Mr. HUMPHREY of Washington. I agree with the gentleman from New York that Members should be here, but the gentleman from South Carolina was making a statement as to when the bill would be taken up again.

Mr. FITZGERALD. In view of the statement of the gentleman from South Carolina I did not wish gentlemen to be misled. We will start on Tuesday, and the disposition will be to proceed with this bill and to dispose of all the parts as they are reached as rapidly as possible.

Mr. HUMPHREY of Washington. I do not disagree to that.

Mr. FITZGERALD. I did not want Members to be misled.

Mr. MOORE of Pennsylvania. Mr. Chairman, can we have the assurance that this will not be taken up before next Tuesday?

Mr. MANN. No, you can not; because we might reach it on Monday.

Mr. FITZGERALD. I doubt that.

The CHAIRMAN. The Chair will again state the request of the gentleman from South Carolina. The request is that that portion of the bill beginning at line 13, page 62, to the bottom of page 65, be passed without prejudice. Is there objection?

Mr. HUMPHREY of Washington. I only want some assurance that it will not be taken up again to-day.

Mr. JOHNSON of South Carolina. No; we will not take it up again to-day.

The CHAIRMAN. The Chair hears no objection to the request, and it is so ordered.

Mr. DUPRÉ. Mr. Chairman, I ask unanimous consent to return to page 59 for the purpose of offering some amendments in relation to the office of assistant treasurer at New Orleans.

The CHAIRMAN. The gentleman from Louisiana asks unanimous consent to return to page 59 for the purpose of offering amendments. Is there objection?

There was no objection.

The Clerk read as follows:

On page 59 of the printed bill, under the caption "Office of the assistant treasurer at New Orleans," in line 10, after the words "receiving teller," amend by striking out the figures "1,800" and inserting the figures "2,000."

Mr. DUPRÉ. Mr. Chairman, the object is to restore the salary which exists under the present law.

The question was taken, and the amendment was rejected.

Mr. DUPRÉ. I also offer the other amendment.

The Clerk read as follows:

Amend page 59, line 11, after the word "clerk," by striking out the words "fourteen hundred" and insert the figures "1,500."

Mr. DUPRÉ. In that case the official was previously known as a bookkeeper at a salary of $1,500. He is changed in this to a clerk with a salary of $1,400. I move the adoption of the amendment.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

For legislative expenses, namely: Furniture, light, telephone, stationery, record casings and files, printing and binding, indexing records, postage, ice, water, clerk hire, mileage of members, and incidentals, pay of chaplain, clerk, sergeant at arms, stenographers, typewriters, janitors, and messengers, $30,000: *Provided*, That the members of the Legislature of the Territory of Hawaii shall not draw their compensation of $200 or any mileage for an extra session, held in compliance with section 54 of an act to provide a government for the Territory of Hawaii, approved April 30, 1900.

Mr. MANN. Mr. Chairman, I move to strike out the last word. What is this proviso that the Legislature of Hawaii shall not draw their compensation of $200, and so forth.

Mr. JOHNSON of South Carolina. The legislature only meets every two years. The sessions of the legislature are biennial.

Mr. MANN. I understand, but what is the object of putting in a provision they shall not draw their compensation for an extra session held in compliance with the law?

Mr. JOHNSON of South Carolina. Well, that is as it came to us from the department.

Mr. GARNER. That is in the last legislative act.

Mr. MANN. No; it is new language here.

Mr. JOHNSON of South Carolina. The department asked for it.

Mr. MANN. All right.

The Clerk read as follows:

WAR DEPARTMENT.

On or before the 30th day of June, 1912, the Secretary of War shall cause a reorganization to be made of the clerical and other office force of the War Department, herein provided for, so as to reduce the whole number of said force not less than 10 per cent, and the salaries or compensation of all places herein provided for in said department that may be embraced within such reduction shall not be available for expenditure, but shall lapse and be covered into the Treasury.

Mr. MANN. Mr. Chairman, I move to strike out the last word. The item providing for a reduction of 10 per cent directs that the Secretary on or before the 30th day of June next shall reorganize his force. Of course this bill is not likely to become a law very much before the 30th of June, if at all. Suppose it did not become a law until the 30th of June? Would the Secretary be able to effect this reorganization?

Mr. JOHNSON of South Carolina. Of course the law would not be operative. He could not be expected to comply with a law that was not in existence.

Mr. MANN. Suppose it became a law on the 29th of June and the Secretary did not reorganize his force, is there any sort of penalty in here? That is what I want to get at.

Mr. JOHNSON of South Carolina. There is no penalty, and if it became a law after the 1st of June——

Mr. MANN. I wondered whether we wanted to pass a law which very likely could not be executed. I doubt whether it will be possible for any Secretary to reorganize his force between the date when this bill becomes a law and the 30th of June, and whether we should pass a law knowing the officers could not comply with it.

Mr. GARNER. Does not the gentleman suppose the Secretary has some idea of this being in the bill, and that it might possibly become a law? He may take cognizance of it at this time.

Mr. MANN. Well, he will not know what is to become the law. Here is an item which might be in conference until the very last moment, and the Secretary can not make his plans accordingly. He usually has enough to do to take care of the things that he has to do, without taking care of dreams. I only call it to the attention of the committee so it may at least be considered whether he is under an obligation to execute a law where it was impossible for him to do it, in order to have the matter cleared up.

Mr. FITZGERALD. I will say this to the gentleman, that as this is such a meritorious bill, we anticipate it will become a law several weeks before the end of June.

Mr. MANN. The gentleman is sometimes very facetious.

Mr. FITZGERALD. No; I am not.

Mr. MANN. And I have never seen him so facetious before as he is on this occasion. The gentleman does not believe for one second that this bill will become a law before the 30th of June.

Mr. FITZGERALD. I hope it will.

Mr. MANN. I hope it will become a law by the 1st of June, but, hope deferred maketh the heart sick.

Mr. FITZGERALD. I do not wish to express any view that would indicate there is going to be any sort of obstruction to the passage of such a meritorious measure——

Mr. MANN. Well, in the ordinary course of events——

Mr. FITZGERALD. I think the gentleman realizes that if the difficulty to which he refers should appear to be inevitable that we will do our very best to make provision that would enable the department to have what was a reasonable time.

Mr. MANN. I call attention so the gentleman might state on the floor that if the bill becomes a law too late to effect the reorganization within the time here prescribed that the Secretary would not be to blame if he did not comply with the strict terms of the provision in the bill.

Mr. GARNER. But if he did comply with the spirit of the law he might reorganize the force after the 1st day of July and save the 10 per cent.

Mr. FITZGERALD. The gentleman realizes, and I think the committee realizes, that it may be possible that some modification of this provision in reference to time may be necessary, and that could be adjusted, probably, on the deficiency bill, which is usually the very last bill to be agreed upon. Nobody would expect the Secretary to do that which was impossible. The committee expected that he would carry out this law in good faith, and the committee put no penalty in the bill for a failure to comply with this provision, because it believed that if the Congress enacted such a provision, no matter who were Secretary of War, he would try in good faith to carry out the direction of Congress.

Mr. MANN. In other words, if this becomes a law and the Secretary is unable to comply with it before the 30th day of June because it is not in force before the 30th of June, the gentleman expects the Secretary to do that which the law requires him to do before the 30th of June after the 30th of June.

Mr. GARNER. As soon as possible.

Mr. FITZGERALD. I think the gentleman and myself are in agreement as to what would be expected. Not only that, but the majority members of the committee as well as the minority proceeded upon the assumption that there would be no disposition on the part of the Secretary of War to ignore or to defy an act of Congress, and that he would in good faith endeavor to carry out the law as enacted.

Mr. JOHNSON of South Carolina. I think the War Department wants it.

Mr. MANN. I know; but I have on more than one occasion heard the gentleman criticize a department officer for not doing a thing which was clearly understood he should not do in the way the law provided under certain conditions.

Mr. FITZGERALD. I never did that knowingly——

Mr. MANN. I will not say that——

Mr. FITZGERALD. I may have done it unintentionally, but I think the spirit of this provision is understood.

The Clerk read as follows:

Office of the Judge Advocate General: Chief clerk and solicitor, $2,500; clerks—1 of class 4, 2 of class 3, 2 of class 2, 6 of class 1; copyist; 2 messengers; assistant messenger; in all, $20,800.

Mr. WILLIS. Mr. Chairman, I desire to offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

In line 6, page 69, after the semicolon, insert "2 law clerks, 1 at $2,000 and 1 at $1,800."

Mr. FITZGERALD. Mr. Chairman, I reserve a point of order on the amendment.

Mr. WILLIS. Mr. Chairman, if this amendment shall be adopted I shall offer another to strike out, in line 6, the word "two" and insert in lieu thereof the word "three," and in line 7 to strike out the word "two," after the word "three," and in lieu thereof insert the word "three." I have offered this amendment because there is a peculiar situation in the office of the Judge Advocate General, as is shown in the hearings on pages 312 and 313. The office of the Judge Advocate General is the Law Division of the War Department. As the chief law officer of the War Department, it becomes his duty to pass upon a very great number of important legal questions growing out of the several jurisdictions of the office. For example, the War Department must approve the plans and locations of bridges and dams on navigable streams under existing statutes. Of course those questions are referred to the Judge Advocate General's office for opinions thereon; also questions as to the alteration of bridges, involving hearings which frequently have to be held in order that information may be secured. Then there is the question of establishing harbor lines, upon which there will be arguments and hearings. Under the jurisdiction of this office are permits for the construction of piers and wharves on navigable streams and questions growing out of the removal of sunken wrecks. Of course in the determination of all these matters there must be hearings and arguments and frequently involved legal opinions and documents must be prepared.

Also a great deal of legal work grows out of the river and harbor improvements and the preparation of opinions relative thereto; also legal questions relative to military reservations, national cemeteries, the soldiers' homes, and questions concerning civil employees, among them the applicability of the eight-hour law to the civil employees of the War Department. All of these important questions are within the civil jurisdiction of the Judge Advocate General; and then, of course, everybody knows that the Judge Advocate General has extensive duties to perform growing out of the military and criminal jurisdiction of that office. In other words, then, it is perfectly clear that this is the legal division of the War Department, and I invite attention to the fact, as set forth in the hearings, that, although it is a legal division, there is absolutely no provision for a law clerk. It seems to be a peculiar situation, inasmuch as we have an office here that has to do entirely with legal questions, yet there is no adequate provision for legal assistance.

Mr. FITZGERALD. Will the gentleman yield?

Mr. WILLIS. Certainly.

Mr. FITZGERALD. The clerks authorized may be law clerks. The classification of clerks merely fixes the compensation.

Mr. BYRNS of Tennessee. If the gentleman will permit, I will call attention to the fact that Gen. Crowder stated that his chief clerk and solicitor were lawyers of ability, and several other clerks now in the office had attended law schools and were lawyers.

Mr. WILLIS. In response to that, I want to suggest, both to the gentleman from New York [Mr. FITZGERALD] and to the gentleman from Tennessee [Mr. BYRNS], who are excellent lawyers, that it is perfectly apparent that it is not possible to get and retain for any length of time very much of a lawyer for the salaries paid to this grade of clerks. It is conceded that the present office force is efficient, but it is inadequate for the kind and quantity of work to be done.

I am familiar with the statement made here by Gen. Crowder. He says there are two clerks who have recently graduated from night school, and they are performing the duties of law clerks. I submit, Mr. Chairman, that is hardly an adequate equipment for this great office, which has to deal with important and far-reaching legal questions involving millions of dollars of the people's money. And the best evidence of that, if any further evidence be necessary, is the fact that the Judge Advocate General himself, in his statement, asks for this specific increase which I have undertaken to provide for in these amendments.

And, further, it has been stated here a number of times by the chairman of the subcommittee that reductions have been made only as they have been recommended by the heads of departments. I may say in passing that I think the heads of departments and the committee have rendered an important and patriotic service in seeking to reduce expenditures, but I call the attention of the committee to this fact, that in this particular case the Secretary of War recommends this specific increase I am now suggesting. I will not take time to read all of his statement. With the permission of the committee I shall insert some of it in the RECORD, however. Gen. Crowder says:

You will notice I have asked for an increase, and it is for the purpose of directing your attention to the necessities of the bureau in that regard that I would like to speak for a moment.

It will be noticed, in looking over the clerical force of the department, that, notwithstanding it is a law office, it has not an appropriation for a single law clerk, and when you take into consideration the extent of the civil jurisdiction of the War Office, it appears almost impossible to carry on the work without some provision being made in this regard. The highest salary in my department is $1,800, and I have two at $1,600, two at $1,400, and six at $1,200.

The CHAIRMAN. Are any of these clerks lawyers?

Gen. CROWDER. Yes, sir. Some of them have attended night law schools, and I think two of them have succeeded in getting diplomas, but they were not brought into the service as law clerks. My chief clerk is a lawyer of ability, and I have in the $1,800 position temporarily a man who is rendering very excellent service, but whom I can not retain at his present salary.

* * * * * * *

In this estimate I have asked for two additional clerks, one at $2,000 and one at $1,800, of the law-clerk class. I took the initiative at the suggestion of the Secretary of War, who examined into the affairs of the office, and made the suggestion based upon the work that his desk was sending to my office. Since then he has looked into the matter more thoroughly, and he authorized me to say this morning that he does not think the increase asked for here is at all sufficient. I prepared a memorandum showing the work coming into the office for consideration in greater detail than I have stated, and he has approved this memorandum and authorized me to submit it to the committee as a part of my statement to you this morning. I would like to have authority from the committee to do that.

The increase asked for is primarily necessary to meet the demands for legal services in respect of the civil jurisdiction of the Secretary of War, and more particularly with reference to the duties with which he is charged in respect of navigable waters and under annual river and harbor acts. Extensive legal hearings are held before the Secretary of War, at which parties in interest are represented by attorneys, and it is not infrequent that lengthy printed briefs are filed for the consideration of the Secretary of War, raising issues of law and fact upon which he must reach a conclusion and base his administrative

action. Not infrequently river and harbor appropriations are conditioned upon the cooperation of communities which involves their participation in the work, and the Secretary of War is directed not to release Federal appropriations until local communities have complied with conditions. Sometimes bond issues are required by local communities, and rights of way are to be acquired, necessitating condemnation proceedings, or bonds are to be given for the performance of the obligations of the community. The legal question as to whether or not there has been compliance upon the part of local communities is always submitted to this office for opinion.

This is only one branch of the civil work coming to this office, but furnishes perhaps more technical questions to resolve than any other. In the disbursement, however, of Army appropriations the supply departments make many contracts, and the contracts, bonds given for their performance, and all questions arising in the execution of contracts are considered and passed upon by the Judge Advocate General.

In other words, here is a recommendation——

The CHAIRMAN (Mr. HUMPHREYS of Mississippi). The time of the gentleman has expired.

Mr. WILLIS. Mr. Chairman, I ask unanimous consent for two minutes more.

The CHAIRMAN. The gentleman from Ohio asks unanimous consent for two minutes more. Is there objection? [After a *pause.*] The Chair hears none.

Mr. WILLIS. This recommendation is, I think, in the long run in the direction of real economy. I believe it will give better public service. I believe it will make it possible better to deal with the work which properly comes within the jurisdiction of the office of the Judge Advocate General. And I invite attention again to the peculiar fact that this office, which is the legal end of the War Department so far as the appropriation is concerned, has no provision whatever for law clerks. If this amendment is adopted it will provide two.

I submit another observation. Now, you take the similar office in the Navy Department that has substantially the same kind of work to perform—not so much, I may say in passing—and I find on examination that in that similar office in the Navy Department there are 19 employees, the total salary of whom aggregates $29,310, or an average salary of $1,543, whereas in this department, that has this tremendously important business to attend to, and which is now behind in its work and is hampered and cramped because of the lack of sufficient law clerks in this division—the office of Judge Advocate General of the War Department—there are only 16 employees as compared with 19 in the similar office in the Navy Department. And whereas the total salary of those employees in the Navy Department is $29,310, here in the office of the Judge Advocate General it is but $20,800, an average salary of only $1,300 as compared with $1,543 in the similar division of the Navy Department.

Mr. BYRNS of Tennessee. Where did the gentleman get his information as to the clerks in the corresponding office in the Navy Department?

Mr. WILLIS. From the hearings. If the gentleman will take the number of clerks in the office of the Solicitor General of the Navy and in the office of the Judge Advocate General of the Navy Department, he will see that those two offices—the office of the Judge Advocate General and the office of the Solicitor General of the Navy Department—perform the same duties in the Navy Department that are performed in the War Department by the office of the Judge Advocate General of that department, yet in the Navy Department the number of employees is 19, drawing an aggregate salary of $29,310, an average to each employee of $1,543 per annum, while in the office of the Judge Advocate General of the War Department the total salaries aggregate $20,800, or an average of $1,300 per annum for each of the 16 employees. The adoption of this amendment will save the people's money by giving them more efficient service.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CANNON. Mr. Chairman, I desire to make a pro forma motion to strike out the last word.

I was unavoidably absent when the provision in regard to the War Department force was reached. This bill provides for a flat 10 per cent reduction in the force in the War Department. I am aware that the Chief of Staff recommended a 25 per cent reduction in that force and that the committee did not go further in its investigation except to examine or give hearings to the heads of the various bureaus—The Adjutant General's office, the Commissary Department, and the Quartermaster's Department, and so on. I am informed, after rather careful inquiry, that they all did not agree with the Chief of Staff in his statement, but each one insisted that the business of the Government could not be transacted properly with any reduction of force, and in some instances they insisted on an increased force. As I understand, it was just a flat statement on the one hand and a protest on the other by the head of every bureau. It seems to me that the committee did not go into detail at all. But by this provision on the 1st of July next 10 per cent of the force of that great department is to march out if the provision should be enacted into law. My own judgment is that the committee should have ascertained bureau by bureau in what manner the 10 per cent should be made up, whether at the head or the bottom or between. I have no objection in the War Department or any other department to any diminution of force that will not embarrass the public service. Just why the majority of the committee did not provide for the decrease of the force one-quarter, as recommended by the Chief of Staff, instead of one-tenth, I do not know. I will be glad to pause for information upon that point. If his recommendation was good enough to provide a 10 per cent reduction, was it not good enough for a 25 per cent reduction?

Mr. GARNER. They wanted to give it in broken doses, so the effect would not be so hard on the patients.

Mr. CANNON. In broken doses? I am now talking seriously about the public service. I say again, it may be that a 10 per cent reduction is apt, but, for anything that appears to this committee, if it is apt, a 25 per cent reduction is apt. Nobody disputes that proposition.

That is about all I desire to say. I do not aim in my remarks to criticize from an unfriendly standpoint the Chief of Staff. I have the honor of an acquaintance with him, and he is a very able man.

Just whether he knows more about this service than the heads of the various bureaus who insist that no decrease in the force should be had, but rather an increase on account of the necessities of the public service, I do not know. In this condition of contradiction I suppose I am a little in the position of the colored man who, when there was a dispute about religious matters and he was "jacked up" and requested to explain what he thought about it, said, "I think this darkey will take to the woods." [Laughter.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. FITZGERALD. Mr. Chairman, I wish to say this to the committee: In three years the Treasury Department has reduced the clerical force of the department by about 16 per cent, reducing the number of clerks from 3,800 to 3,396. That was done on the initiation of the department, and yet all the time the heads of the respective bureaus and divisions in the department were insisting that the force could not be reduced, but that, on the contrary, in many instances, it should be increased.

The Chief of Staff of the Army went before the Committee on Expenditures in the War Department and made quite an extensive statement as to the clerical force needed in the War Department and the reduction that could be made therein, and it came to the attention of the members of the committee in charge of the legislative bill. They sent for the Chief of Staff. They asked him if he stood on what he said before the Committee on Expenditures in the War Department, and he said that he did.

The Committee on Appropriations did not then attempt to review the situation in the War Department in the same way as it did with respect to the Treasury Department. An official who states he is the official advisor, both as to departmental and military affairs, to the Secretary of War insisted that the clerical force in the War Department was too large. The heads of the various bureaus insisted either that they had only the force that they needed or else that they had an inadequate force. The committee did not attempt to single out the places to be abolished, but instead inserted a provision to the effect that the department itself should reorganize and eliminate the places that are not necessary.

It is hardly fair to criticize this side of the House for accepting the recommendation of the Chief of Staff. When the Army appropriation bill was under consideration in the Committee of the Whole this side of the House was criticized because it attempted to propose legislation to which the Chief of Staff was opposed, and which, under the advice of the Secretary of War, he said was ill advised. This time the committee, thinking perhaps it might be possible to satisfy those who were criticizing us when the Army bill was under consideration, accepted the opinion of the Chief of Staff as to what would be best to do. Nobody on this side of the House, I will say to the gentleman, has any desire to cripple or impair the efficiency of the governmental service. I do not care how much money is required; I am willing to vote all the money that is necessary to enable this Government to be conducted properly.

My opinion, based on the investigations which I have been a party to, is that there are in many instances duplications of service, unnecessary employees—grown up perhaps without responsibility to be fixed upon any particular branch of the Government; and I think that this opportunity, given to the

department to eliminate those employees that are not necessary and to organize its force so that its business may be efficiently conducted, will not harm the service, but will do much good.

Mr. AUSTIN. Mr. Chairman, may I ask the gentleman a question?

The CHAIRMAN. Does the gentleman from New York yield to the gentleman from Tennessee?

Mr. FITZGERALD. Yes.

Mr. AUSTIN. All through the report which accompanies the bill are statements here and there about a clerk cut off, or a watchman cut off, and a charwoman cut off. Were all of these reductions made by the committee respecting the various bureaus of the Government upon the recommendations of the heads of the respective departments?

Mr. FITZGERALD. No. It is rather exceptional to find any department of the Government, outside of the Treasury Department, recommending any reductions in its force. During the past three years the Treasury Department has done excellent work in this direction, as we frankly concede. But outside of that department it is rare to find any department recommending reductions in force. I might say, in addition, that the Post Office Department has in some places at this time made recommendations to reduce the force and effect economies. The reductions made here are reductions made by the committee after investigations by which it was convinced that these services could be dispensed with because they are unnecessary.

Mr. AUSTIN. Were these reductions, then, made against the protests of the heads of the respective departments?

Mr. FITZGERALD. Well, these places were not provided for any more than additional places were not provided for which the department asked, and the committee did not assume that simply because the places exist that that is conclusive evidence that they are necessary.

Mr. AUSTIN. But where there was a conflict between the heads of departments who were granted hearings by the various subcommittees of the Committee on Appropriations, and where the heads of departments stated that these positions were necessary for the proper and efficient management and conduct of the respective departments, did the committee, without any indications of that kind, take its own judgment?

Mr. FITZGERALD. There never was any conflict. The department representatives appeared before the committee and presented such information as they possessed as to the necessity for the places, and then the committee determined whether the places were necessary. If the committee determined that they are not necessary, it recommended accordingly.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CANNON. Mr. Chairman, I move to strike out the last two words. I desire recognition to make a brief statement. I want to ask the gentleman from New York how many decreases have been made in the Treasury Department employees?

Mr. FITZGERALD. Five hundred and six in three years.

Mr. CANNON. In three years. Where?

Mr. FITZGERALD. In the departmental service.

Mr. CANNON. I know; let us particularize about it.

Mr. FITZGERALD. In various bureaus.

Mr. CANNON. I know; but let us particularize about it. Does the gentleman mean in every bureau?

Mr. FITZGERALD. I have not the details before me at present.

Mr. CANNON. The gentleman can ascertain if he will only ask the gentleman sitting by him.

Mr. FITZGERALD. I do not think either myself or the gentleman to whom the gentleman from Illinois refers carries the details of these reductions in his head. I shall be glad before this bill is completed to place in the RECORD a statement showing the reductions effected in the last three years in the Treasusy Department.

Mr. CANNON. I will say this, if the gentleman does not give me an answer——

Mr. FITZGERALD. I do not answer because I have not the information ready.

Mr. CANNON. I think the clerk to the gentleman's committee can get it in a few minutes. The gentleman says that aid is not given by the heads of bureaus in effecting reductions, and so forth. The largest reduction of force, according to my recollection, that was made in the Treasury Department grew out of the introduction of machinery in the Bureau of Engraving and Printing and by an invention that numbered the notes as they were printed and put the seals on the notes. That, I think, dispensed with a number of people aggregating, perhaps, 100, who were employed in the Treasury Department, the same work being done now in another branch of the Treasury Department, the Bureau of Engraving and Printing.

I think also there was some decrease in consequence of certain reforms in the method of auditing in the office of the Auditor for the Post Office Department, which used to be called the office of the Sixth Auditor.

I am very glad those reforms have been brought about, but they were made upon the suggestion of those who were at the head, as I recollect, of the various bureaus, and by the use of machinery and by intelligent printing and sealing. It was by those means that those retrenchments were made.

Now, we have no such showing in the War Department. I am not here by any manner of means to criticize, save alone that I do not quite indorse the plea in set-off that the gentleman from New York has made, because that side of the House went against the advice of the Chief of Staff on the Army appropriation bill, and now the gentleman seeks to bring in a set-off by acting according to the advice of the Chief of Staff in this bill. [Applause.] I do not exactly know——

Mr. TILSON. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from Connecticut?

Mr. CANNON. Yes.

Mr. TILSON. Would it not be more consistent if we were going to follow the advice of the Chief of Staff to follow it in matters military rather than in this matter, which is purely a civil administrative matter? In the case of the Army bill, where the Chief of Staff made recommendations in regard to military matters in which he is supposed to be an expert, the House did not follow his advice. Now in a matter in which he is not supposed to be more of an expert than any other bureau head we are following his advice.

Mr. CANNON. It is not for me to comment on that statement.

Mr. BARTLETT. May I suggest to the gentleman from Illinois——

Mr. CANNON. Yes.

Mr. BARTLETT (continuing). That the Secretary of War is not simply the adviser of Congress in reference to the detailed matters of keeping up the Army, but also the discharge of his official duties connected with the Department of War.

Mr. CANNON. I do not know what recommendation the Secretary of War may have made; whether he coincides with the recommendation of the Chief of Staff or not.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. FITZGERALD. Mr. Chairman, I move to strike out the last word. I have now the "statement of the new offices created," the document familiar to Members of the House.

Mr. CANNON. And also the decreases?

Mr. FITZGERALD. Yes; and it shows that last year in the Treasury Department there were 75 places created with salaries totaling $83,807 and 316 places omitted with salaries aggregating $283,259. The net decrease is 241 places and about $200,000 in salaries.

Mr. CANNON. Was not the bulk of that decrease due to the fact that the Bureau of Engraving and Printing, by the use of additional machinery in the sealing of the notes and securities, was able to do the work with less labor by half than had theretofore been required, and they were enabled to do away with a number of low-priced employees?

Mr. FITZGERALD. My recollection is that there were two divisions affected by that change. One was the Division of Loans and Currency and the other was the office of the Treasurer of the United States. In the office of the Treasurer of the United States there were 13 places created and 60 dropped, and in the Loans Division there were 64 places abolished and 1 created.

Mr. CANNON. Almost 140 in the aggregate.

Mr. AUSTIN. Will the gentleman give us the information from the Sixth Auditor's office on account of the substitution of accounting machines.

Mr. FITZGERALD. I am not referring to that.

Mr. CANNON. I will see that the table is made and subsequently placed in the RECORD.

Mr. FITZGERALD. I will be glad to place the table in the RECORD. I ask unanimous consent, Mr. Chairman, to put the statement in the RECORD for three years past.

The CHAIRMAN. The gentleman from New York asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. FITZGERALD. I submit as a part of my remarks, to be printed in the RECORD, extracts from the annual statements of "new offices created and offices omitted" for the two regular sessions of the last Congress, covering the fiscal years 1911

and 1912, showing in detail and by offices and bureaus the reductions made in the force of the Treasury Department, and also an extract from the report on this bill showing the further reductions proposed by this bill:

SECOND SESSION OF THE SIXTY-FIRST CONGRESS, FISCAL YEAR 1911.

New offices created and offices omitted.

	New offices created.		Offices omitted.	
	No.	Amount.	No.	Amount.
TREASURY DEPARTMENT.				
Office of the Secretary.				
Executive clerk	1	$2,400.00		
Messenger	1	900.00		
Wireman (office of chief clerk and superintendent)	1	900.00		
Superintendent of supplies (General Supply Committee)	1	2,000.00		
Clerks of class 2, at $1,400 each (General Supply Committee)	2	2,800.00		
Clerk of class 1 (Division of Loans and Currency)	1	1,200.00		
Laborers, at $660 each (Division of Loans and Currency)	2	1,320.00		
Paper counters and laborers, at $620 each (Division of Loans and Currency)	7	4,340.00		
Clerks, at $1,000 each (Division of Revenue-Cutter Service)	2	2,000.00		
Messenger boy (Division of Printing and Stationery)	1	360.00		
Assistant to document clerk (Division of Mail and Files)	1	840.00		
Messenger boy (Division of Mail and Files)	1	360.00		
Deputy disbursing clerk (Office of disbursing clerks)	1	2,750.00		
Clerks of class 2, at $1,400 each (Office of disbursing clerks)	2	2,800.00		
Assistant messenger (Office of disbursing clerks)	1	720.00		
Examiner			1	$2,000.00
Messenger			1	840.00
Laborer			1	660.00
Messenger boy (Office of chief clerk and superintendent)			1	360.00
Watchmen, at $720 each (Office of chief clerk and superintendent)			2	1,440.00
Skilled laborer (Office of chief clerk and superintendent)			1	720.00
Draftsman (Office of chief clerk and superintendent)			1	1,200.00
Laborer (Division of Bookkeeping and Warrants)			1	660.00
Assistant messenger (Division of Customs)			1	720.00
Clerk (Division of Appointments)			1	900.00
Assistant messenger (Division of Appointments)			1	720.00
Expert counters, at $720 each (Division of Loans and Currency)			2	1,440.00
Clerk of class 3 (Division of Revenue-Cutter Service)			1	1,600.00
Clerk of class 2 (Division of Revenue-Cutter Service)			1	1,400.00
Foreman of bindery, at $6 per day (Division of Printing and Stationery)			1	1,878.00
Binders, at $4 per day each (Division of Printing and Stationery)			4	5,008.00
Sewers and folders, at $2.50 per day each (Division of Printing and Stationery)			2	1,565.00
Clerk (Division of Mail and Files)			1	900.00
Laborer (Division of Mail and Files)			1	600.00
Disbursing clerk (Offices of disbursing clerks)			1	2,500.00
Clerk of class 3 (Offices of disbursing clerks)			1	1,600.00
Clerk of class 1 (Offices of disbursing clerks)			1	1,200.00
Clerk (Offices of disbursing clerks)			1	900.00
Messenger (Offices of disbursing clerks)			1	840.00
Laborer (Offices of disbursing clerks)			1	660.00
Total, office of the Secretary	25	25,690.00	31	32,311.00
Office of the Supervising Architect.				
Executive officer	1	3,250.00		
Laborer	1	360.00		
Assistant to Supervising Architect			1	3,250.00
Laborer			1	660.00
Total, office of the Supervising Architect	2	3,610.00	2	3,910.00
Office of Comptroller of the Treasury.				
Law clerks, revising accounts and briefing opinions, at $2,000 each	2	4,000.00		
Clerk of class 3	1	1,600.00		
Clerk of class 2			1	1,400.00
Total, office of Comptroller of the Treasury	3	5,500.00	1	1,400.00
Office of Auditor for the War Department.				
Clerk			1	1,000.00
Clerks, at $900 each			8	7,200.00
Clerks, at $840 each			3	2,520.00
Total, office of Auditor for the War Department			12	10,720.00
Office of Auditor for Interior Department.				
Skilled laborer			1	720.00
Laborers, at $660 each			2	1,320.00
Total, office of Auditor for Interior Department			3	2,040.00

SECOND SESSION OF THE SIXTY-FIRST CONGRESS, FISCAL YEAR 1911—con'd.

New offices created and offices omitted—Continued.

	New offices created.		Offices omitted.	
	No.	Amount.	No.	Amount.
TREASURY DEPARTMENT—continued.				
Office of Auditor for Post Office Department.				
Skilled laborer	1	$1,000.00		
Money-order assorters, at $840 each	5	4,200.00		
Money-order assorters, at $780 each	5	3,900.00		
Female laborers, at $660 each	2	1,320.00		
Skilled laborers, at $840 each	6	5,040.00		
Skilled laborers, at $720 each	8	5,760.00		
Messenger boys, at $480 each	4	1,920.00		
Messenger boys, at $360 each	5	1,800.00		
Clerks of class 4, at $1,800 each			3	$5,400.00
Clerks of class 3, at $1,600 each			3	4,800.00
Clerks of class 2, at $1,400 each			9	12,600.00
Clerks of class 1, at $1,200 each			14	16,800.00
Clerks, at $1,000 each			46	46,000.00
Clerks, at $900 each			2	1,800.00
Money-order assorters, at $660 each			2	1,320.00
Messengers, at $840 each			6	5,040.00
Assistant messengers, at $720 each			9	6,480.00
Total, office of Auditor for Post Office Department	36	24,940.00	94	100,240.00
Office of the Treasurer.				
Clerk of class 1	1	1,200.00		
Expert counters, at $900 each	20	18,000.00		
Clerk of class 4 (To be reimbursed by the national banks)	1	1,800.00		
Expert counters, at $1,200 each (To be reimbursed by the national banks)	10	12,000.00		
Expert counters, at $1,000 each (To be reimbursed by the national banks)	11	11,000.00		
Expert counters, at $900 each (To be reimbursed by the national banks)	11	9,900.00		
Expert counters, at $800 each (To be reimbursed by the national banks)	11	8,800.00		
Expert counters, at $700 each (To be reimbursed by the national banks)	11	7,700.00		
Clerk of class 2			1	1,400.00
Clerks, at $900 each			20	18,000.00
Expert counters, at $720 each			12	8,640.00
Assistant messenger			1	720.00
Laborers, at $660 each			6	3,960.00
Foreman pressman			1	1,500.00
Pressmen, at $1,400 each			14	19,600.00
Separators, at $660 each			42	27,720.00
Feeders, at $660 each			22	14,520.00
Machinists, at $1,000 each			2	2,000.00
Messenger (to be reimbursed by the national banks)			1	840.00
Total, office of the Treasurer	76	70,400.00	122	98,900.00
Office of the Register of the Treasury.				
Clerk, assorter of canceled bonds for binding	1	800.00		
Counters, at $720 each			5	3,600.00
Total, office of the Register of the Treasury	1	800.00	5	3,600.00
Office of the Comptroller of the Currency.				
Clerks of Class 1, at $1,200 each	15	18,000.00		
Counters, at $840 each	7	5,880.00		
Assistant messenger	1	720.00		
Total, office of the Comptroller of the Currency	23	24,600.00		
Office of the Commissioner of Internal Revenue.				
Head of division	1	2,500.00		
Clerk of class 2	1	1,400.00		
Clerk	1	1,000.00		
Messenger	1	840.00		
Assistant messengers, at $720 each	2	1,440.00		
The following authorized and being paid from the appropriation "withdrawal of denaturalized alcohol" are specifically appropriated for in the office of the Commissioner of Internal Revenue for the fiscal year 1911, namely:				
1 chief chemist, $3,000.00				
1 first assistant chemist, 1,800.00				
1 clerk of class 4, 1,800.00				
1 clerk of class 3, 1,600.00				
4 clerks of class 2, at $1,400 each, 5,600.00				
3 clerks of class 1, at $1,200 each, 3,600.00				
1 messenger, 840.00				
12 Total, 18,240.00				
Head of division			1	2,250.00
Total, office of the Commissioner of Internal Revenue, specific	6	7,180.00	1	2,250.00
Office of Life-Saving Service.				
Draftsman			1	1,500.00
Office of the Director of the Mint.				
Private secretary	1	1,800.00		
Clerk of class 3	1	1,600.00		
Skilled laborer	1	720.00		
Clerk of class 4			1	1,800.00
Clerk of class 1			1	1,200.00
Clerk			1	1,000.00
Laborer			1	660.00
Total, office of the Director of the Mint	3	4,120.00	4	4,660.00

SECOND SESSION OF THE SIXTY-FIRST CONGRESS, FISCAL YEAR 1911—con'd.

New offices created and offices omitted—Continued.

	New offices created.		Offices omitted.	
	No.	Amount.	No.	Amount.
TREASURY DEPARTMENT—continued.				
Methods of administration in the Treasury.				
For investigation of accounts and records, and to secure better methods of administration, with a view to greater economy in the expenditure of public money, including necessary traveling expenses, in connection with special work, or obtaining of better administrative methods in any branch of the service within or under the Treasury Department, including the temporary employment of agents, stenographers, accountants, or other expert services, either within or without the District of Columbia, there is appropriated for the fiscal year 1911 the sum of $75,000, and for the balance of the fiscal year 1910 by the urgent deficiency act (p. 436) there was appropriated for these purposes the sum of $25,000; in all, $100,000				
Total, Treasury Department, specific	175	$166,840.00	276	$261,531.00

LAST SESSION OF THE SIXTY-FIRST CONGRESS, FISCAL YEAR 1912.

	New offices created.		Offices omitted.	
	No.	Amount.	No.	Amount.
TREASURY DEPARTMENT.				
Office of the Secretary.				
Messenger	1	$840.00		
Elevator conductors, at $720 each (Office of chief clerk and superintendent.)	2	1,440.00		
Charwomen, at $240 each (Office of chief clerk and superintendent.)	4	960.00		
Clerk of class 1 (Division of Customs)	1	1,200.00		
Clerk (Division of Customs)	1	1,000.00		
Custodian of paper (Division of Loans and Currency)	1	2,250.00		
Bookbinder (Division of Printing and Stationery)	1	1,250.00		
Clerk of class 1 (Division of Printing and Stationery)	1	1,200.00		
Messenger (office of disbursing clerk)	1	840.00		
Assistant chief messenger			1	$1,000.00
Clerk of class 4 (Office of chief clerk and superintendent.)			1	1,800.00
Clerk of class 1 (Office of chief clerk and superintendent.)			1	1,200.00
Assistant messengers, at $720 each (Office of chief clerk and superintendent.)			2	1,440.00
Watchmen, at $720 each (Office of chief clerk and superintendent.)			2	1,440.00
Laborer (Office of chief clerk and superintendent.)			1	600.00
Laborers, at $480 each (Office of chief clerk and superintendent.)			3	1,440.00
Foreman of cabinet shop (Office of chief clerk and superintendent.)			1	1,500.00
Cabinetmakers, at $1,000 each (Office of chief clerk and superintendent.)			6	6,000.00
Carpenter (Office of chief clerk and superintendent.)			1	1,000.00
Carpenter's helper (Office of chief clerk and superintendent.)			1	660.00
Clerks, at $900 each (Division of Bookkeeping and Warrants.)			2	1,800.00
Assistant messenger (Division of Bookkeeping and Warrants.)			1	720.00
Clerk of class 2 (Division of Customs)			1	1,400.00
Clerk (Division of Customs)			1	900.00
Clerk of class 4 (Division of Loans and Currency.)			1	1,800.00
Clerk of class 3 (Division of Loans and Currency.)			1	1,600.00
Clerk of class 1 (Division of Loans and Currency.)			1	1,200.00
Clerk (Division of Loans and Currency.)			1	1,000.00
Expert money counters, at $720 each (Division of Loans and Currency.)			3	2,160.00
Laborers, at $660 each (Division of Loans and Currency.)			5	3,300.00
Superintendent of paper room (Division of Loans and Currency.)			1	1,200.00
Paper cutter (Division of Loans and Currency.)			1	939.00
Paper counter (Division of Loans and Currency.)			1	720.00
Paper counters and laborers, at $620 each (Division of Loans and Currency.)			50	31,000.00
Clerks of class 3, at $1,600 each (Division of Printing and Stationery)			2	3,200.00
Clerk (Division of Mail and Files)			1	900.00
Clerk of class 3 (Office of disbursing clerk)			1	1,600.00
Clerks of class 2, at $1,400 each (Office of disbursing clerk)			2	2,800.00
Clerks of class 1, at $1,200 each (Office of disbursing clerk)			2	2,400.00
Assistant messenger (Office of disbursing clerk)			1	720.00
Total, office of the Secretary	13	10,980.00	99	79,439.00
Office of the Supervising Architect.				
Clerk of class 2	1	$1,400.00		
Laborer			1	$360.00
Total, office of the Supervising Architect	1	1,400.00	1	360.00
Office of Auditor for Treasury Department.				
Chief clerk and chief of division	1	2,250.00		
Clerk of class 1	1	1,200.00		
Deputy auditor			1	2,500.00
Chief of division			1	2,000.00
Clerks, at $1,000 each			3	3,000.00
Total, office of Auditor for Treasury Department	2	3,450.00	5	7,500.00

LAST SESSION OF THE SIXTY-FIRST CONGRESS, FISCAL YEAR 1912—cont'd.

New offices created and offices omitted—Continued.

	New offices created.		Offices omitted.	
	No.	Amount.	No.	Amount.
TREASURY DEPARTMENT—continued.				
Office of Auditor for War Department.				
Chief clerk and chief of division	1	$2,250.00		
Deputy auditor			1	$2,500.00
Chiefs of division, at $2,000 each			3	6,000.00
Clerks of class 1, at $1,200 each			30	36,000.00
Clerk			1	900.00
Laborer			1	660.00
Total, office of Auditor for War Department	1	2,250.00	36	46,060.00
Office of Auditor for Navy Department.				
Chief clerk and chief of division	1	2,250.00		
Deputy auditor			1	2,500.00
Chief of division			1	2,000.00
Clerks, at $1,000 each			6	6,000.00
Clerks, at $900 each			5	4,500.00
Clerk			1	800.00
Total, office of Auditor for Navy Department	1	2,250.00	14	15,800.00
Office of Auditor for Interior Department.				
Chief clerk and chief of division	1	2,250.00		
Clerk of class 4	1	1,800.00		
Clerk of class 2	1	1,400.00		
Messengers, at $840 each	2	1,680.00		
Assistant messenger	1	720.00		
Deputy auditor			1	2,500.00
Chief of division			1	2,000.00
Clerks, at $1,000 each			2	2,000.00
Clerks, at $900 each			9	8,100.00
Laborers, at $660 each			3	1,980.00
Skilled laborers, at $720 each			3	2,160.00
Female laborer			1	600.00
Total, office of Auditor for Interior Department	6	7,850.00	20	19,340.00
Office of Auditor for the State and Other Departments.				
Chief clerk and chief of division	1	2,250.00		
Deputy auditor			1	2,500.00
Chief of division			1	2,000.00
Laborer			1	660.00
Total, office of Auditor for the State and Other Departments	1	2,250.00	3	5,160.00
Office of Auditor for Post Office Department.				
Assistant and chief clerk	1	3,000.00		
Principal bookkeepers, at $2,000 each	4	8,000.00		
Money-order assorters, at $780 each	5	3,900.00		
Chief clerk			1	2,000.00
Deputy auditors, at $2,500 each			2	5,000.00
Clerks of class 4, at $1,800 each			4	7,200.00
Clerks, at $900 each			24	21,600.00
Money-order assorters, at $660 each			19	12,540.00
Total, office of Auditor for Post Office Department	10	14,900.00	50	48,340.00
Office of the Treasurer.				
Clerks of class 1, at $1,200 each	3	3,600.00		
Clerks, at $1,000 each	2	2,000.00		
Expert counters, at $700 each	8	5,600.00		
Clerks, at $900 each			10	9,000.00
Expert counters, at $900 each			11	9,900.00
Expert counters, at $800 each			5	4,000.00
Expert counters, at $720 each			13	9,360.00
Laborers, at $660 each			2	1,320.00
Charwomen, at $240 each			16	3,840.00
Expert counters, at $700 each (to be reimbursed by the national banks)			3	2,100.00
Total, office of the Treasurer	13	11,200.00	60	39,520.00
Office of the Register of the Treasury.				
Clerks, at $900 each			2	1,800.00
Counters, at $720 each			12	8,640.00
Laborers, at $660 each			3	1,980.00
Total, office of the Register of the Treasury			17	12,420.00
Office of the Comptroller of the Currency.				
Clerks of class 1, at $1,200 each	2	2,400.00		
Clerks, at $900 each	6	5,400.00		
Counter	1	840.00		
Counters, at $700 each	3	2,100.00		
Clerk of class 2 (To be reimbursed by the national banks.)	1	1,400.00		
Expert counters, at $840 each (To be reimbursed by the national banks.)	7	5,880.00		
Total, office of the Comptroller of the Currency	20	18,020.00		

LAST SESSION OF THE SIXTY-FIRST CONGRESS, FISCAL YEAR 1912—cont'd.
New offices created and offices omitted—Continued.

	New offices created.		Offices omitted.	
	No.	Amount.	No.	Amount.
TREASURY DEPARTMENT—continued.				
Office of the Commissioner of Internal Revenue.				
Clerks, at $2,000 each	2	$4,000.00		
Clerk of class 1	1	1,200.00		
Fourth assistant chemist			1	$1,200.00
Clerks, at $900 each			2	1,800.00
Laborers, at $600 each			3	1,980.00
Total, office of the Commissioner of Internal Revenue	3	5,200.00	6	4,980.00
Office of Life-Saving Service.				
Draftsman	1	1,500.00		
Messenger	1	840.00		
Assistant messenger			1	720.00
Total, office of Life-Saving Service	2	2,340.00	1	720.00
Bureau of Engraving and Printing.				
Clerk	1	1,000.00		
Clerk			1	780.00
Helper			1	720.00
Total Bureau of Engraving and Printing	1	1,000.00	2	1,500.00
Secret Service Division.				
Assistant messenger	1	720.00		
Attendant			1	720.00
Total, Secret Service Division	1	720.00	1	720.00
Office of the Director of the Mint.				
Clerk of class 2			1	1,400.00
Total, Treasury Department, specific	75	83,810.00	316	283,259.00

[Extract from report on the pending bill.]

TREASURY DEPARTMENT.

Office of the chief clerk: A reduction is recommended of 1 watchman, at $720; 6 charwomen, at $240 each; 5 cabinetmakers, 4 at $1,000 each and 1 at $720; and 1 watchman-fireman, at $720.

An increase is recommended of 1 plumber's assistant at $720, and 3 carpenters, 2 at $1,000 each and 1 at $720.

Division of Bookkeeping and Warrants: A reduction is recommended of 1 clerk, at $1,200.

Division of Public Moneys: A reduction is recommended of 1 clerk, at $900.

Division of Loans and Currency: Certain transfers from the register's office are provided for without change in rate of pay or increase in numbers.

Division of Mails and Files: A superintendent of mails, at $2,000, instead of a chief of division, at $2,500; a distributing clerk, at $1,400; and 1 document clerk, at $1,000, are provided for.

Reductions are recommended as follows: Four clerks, at $1,400 each; additional to 1 clerk of class 2 in charge of documents, $200; 1 clerk, at $1,200; 6 clerks, at $1,000 each; 2 clerks, at $900 each; 1 assistant messenger, at $720; 1 assistant to document clerk, at $840; and the pay of a mail messenger is reduced from $1,200 to $1,000.

Office of disbursing clerk: Aside from certain transfers to this office, an increase is recommended of 1 clerk at $1,800 and 1 clerk at $1,400.

Office of Supervising Architect: A reorganization of the force of this office is recommended resulting in a net reduction of 7 employees and $13,740 in the total amount of compensation; no salaries are increased and no new places are created, although some changes in designation are recommended.

A provision is recommended making specific appropriation for 103 employees in this office who are now employed and being paid from the lump appropriation for "General expenses of public buildings" carried in the sundry civil act; their present rate of compensation not being increased or their numbers added to; it is required that specific estimates shall be submitted for these employees for the fiscal year 1913 and annually thereafter.

Office of the Comptroller of the Treasury: A reduction is recommended of 1 law clerk, at $2,000, and 1 laborer, at $660.

Office of the Auditor for the Treasury Department: A reduction is made of 1 chief of division, at $2,000; 2 clerks, at $1,200 each; 4 clerks, at $1,000 each; 2 clerks, at $900 each; and 1 laborer, at $660.

Office of the Auditor for the War Department: A reduction is recommended of 10 clerks, at $1,400 each; 2 clerks, at $1,200 each; 9 clerks, at $1,000 each; and 1 laborer, at $660.

An additional messenger boy, at $480, is recommended.

Office of the Auditor for the Navy Department: A reduction is made of 1 clerk, at $900.

Office of the Auditor for the Interior Department: A reduction is recommended of 5 clerks, at $1,200 each, and 5 clerks, at $1,000 each.

Office of the Auditor for State and Other Departments: A reduction is recommended of 1 clerk, at $900, and 1 laborer, at $660.

Office of the Auditor for the Post Office Department: A reduction is recommended of 8 clerks, at $1,800 each; 18 clerks, at $1,600 each; 20 clerks, at $1,400 each; 16 clerks, at $1,200 each; 10 money-order assorters, at $660 each; 1 female laborer, at $660; 3 laborers, at $660 each; and 2 charwomen, at $240 each.

Authority is recommended for the necessary employees, with total compensation not exceeding $50,000 during the next fiscal year, to audit the accounts of the postal savings system, the same to be paid out of the appropriation for that system and with the requirement that estimates in detail shall be submitted for this force for the fiscal year 1914 and annually thereafter.

Office of the Treasurer: A reduction is recommended of 2 chiefs of division, at $2,500 each; 1 assistant chief of division, at $2,250; 1 clerk, at $1,600; 2 clerks, at $1,200 each; 1 clerk, at $1,000; and 2 clerks, at $900 each.

A reduction of 1 clerk, at $700, is recommended in the force of the office employed in redeeming national currency.

A provision is inserted authorizing employment of necessary clerks in connection with the postal savings system at a cost not exceeding $18,000 for the fiscal year 1913, the same to be paid from the appropriation for postal savings system, with the requirement that estimates be submitted in detail for such force for the fiscal year 1914 and annually thereafter.

Bureau of Engraving and Printing: Provision for a medical and sanitary officer at $2,000 is recommended, and 1 clerk at $780 is omitted.

Secret Service Division: The salary of the chief is reduced from $4,000 to $3,600.

Office of the Director of the Mint: A reduction is made of 1 adjuster of accounts, at $2,500, and 1 clerk, at $1,200.

The question being taken, the amendment was rejected.

The Clerk read as follows:

And the services of skilled draftsmen, civil engineers, and such other services as the Secretary of War may deem necessary, may be employed only in the office of the Chief of Engineers, to carry into effect the various appropriations for rivers and harbors, fortifications, and surveys, to be paid from such appropriations: *Provided*, That the expenditures on this account for the fiscal year 1913 shall not exceed $40,000; and that the Secretary of War shall each year, in the annual estimates, report to Congress the number of persons so employed, their duties, and the amount paid to each.

Mr. MANN. Mr. Chairman, I move to strike out the last word. We have two or three other matters to attend to——

Mr. JOHNSON of South Carolina. Mr. Chairman, if the gentleman from Illinois does not object, we want the Clerk to read down to the Navy Department. I do not think there will be a word of debate before that.

Mr. CANNON. Why not consider it read by unanimous consent?

Mr. MANN. There are three propositions that will take a little time.

Mr. JOHNSON of South Carolina. Of course, if the gentleman wants to rise—Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. UNDERWOOD, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 24023, and had directed him to report it had come to no resolution thereon.

RELIEF OF SUFFERERS FROM FLOODS.

Mr. BARTLETT. Mr. Speaker, I am directed by the Committee on Appropriations to call up the following joint resolution and ask its immediate consideration.

The SPEAKER. The gentleman from Georgia calls up the following joint resolution——

Mr. BARTLETT. And I would ask that it be considered in the House as in the Committee of the Whole.

The SPEAKER. And the gentleman asks that the joint resolution be considered in the House as in Committee of the Whole. Is there objection?

Mr. MANN. Let us have it reported.

The SPEAKER. The Clerk will report the joint resolution.

The Clerk read as follows:

House joint resolution (H. J. Res. 312) making appropriations for the relief of sufferers from floods in the Mississippi and Ohio Valleys.

Resolved, etc., That there is appropriated, out of any money in the Treasury not otherwise appropriated, the following sums for the relief of sufferers from floods in the Mississippi and Ohio Valleys, namely:

WAR DEPARTMENT.

Under the Quartermaster General: For providing tents and other necessary supplies and services and for reimbursement of the several appropriations of the Quartermaster's Department, United States Army, from which temporary relief has already been or may be afforded, $277,179.65.

Under the Commissary General: For rations issued and to be issued by the Commissary Department and for reimbursement of appropriations for subsistence of the Army from which temporary relief has already been or may be afforded, $420,000.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. BARTLETT. Mr. Speaker, I have no desire to make any remarks.

Mr. RUSSELL. Mr. Speaker, the gentleman from Kentucky [Mr. JAMES] and I at the same time introduced the first two bills asking for $250,000 each for the relief of distress and destitution among the people resulting from the recent unprecedented floods. The districts represented by us, upon opposite sides of the Mississippi River and immediately below the mouth of the Ohio, were by reason of their location the first to suffer. The stage of the water at the mouth of the Ohio and in the adjacent

territory was about 2 feet higher than ever before, and our constituents were the first to learn that the levees upon which the Government and the people had expended hundreds of thousands of dollars, and that had withstood the menace of all former floods of recent years, were now insufficient and furnished no security. The first to meet the wrath of any unexpected pestilence or calamity naturally encounter more dangers and suffer more privations and distress than those who are afterwards forewarned and, to some extent, prepared for their coming and their ravages. So, too, our constituents were the first to face the dangers of this flood and doubtless sustained greater losses than any other like territory in the Mississippi Valley. The actual property loss in my district alone will far exceed a million dollars.

There has been nothing during my brief service in this House of which I was expected to take official cognizance that has so touched my feelings and enlisted my sympathies as the distressing messages and appeals for assitance from county and city officials, and other citizens of my district, all of whom I know to be honorable and reliable and many of them my near neighbors and lifetime friends.

But, Mr. Speaker, I do not ask to consume the time of the House to advocate the passage of this bill, as I believe that to be unnecessary. I hope and believe there will not be a vote cast against it. But I speak more to commend President Taft for his willingness, his earnestness, and his promptness in responding to the appeals and in relieving the distress of suffering humanity.

When innumerable telegrams were pouring in upon me, asking for assistance and advising me that some were lost, some were starving, some were driven by the raging waters to housetops, and that thousands had fled from their homes to places of safety, to me it seemed to be an extreme emergency. I conferred with my friend from Kentucky [Mr. JAMES], to the hills of whose district many of my constituents had fled, and we introduced our bills asking for an appropriation for relief. We both appeared before the Appropriation Committee and made arguments in support of our bills, and were given a respectful hearing by that committee; but this method seemed too slow for the distressing necessities of the hour. We went to see the President and showed to him some of the messages received and made our statements, and in his own words he said, "Boys, I will try to help you out." I shall never forget his assuring words, nor cease to thank him for giving expression to them. He at once sent for the Quartermaster General, and in our presence said to him, "General, get busy. Send the necessary men into the flooded districts; send tents, blankets, and provisions necessary to relieve the suffering people, and I will trust Congress to protect me in the expenses necessarily incurred."

Mr. Speaker, I am in a sense a partisan, but I am glad that I have never been so blinded by partisanship that I could not see the virtues or the noble qualities of one of a different political faith, and am glad here and now not only to express my thanks and the thanks of my constituents, but am glad to make public acknowledgment of his noble qualities of heart that I believe led him to take such prompt action and to render such timely and efficient service in extending relief to the suffering and distressed.

During those days of trouble and suffering among my constituents I also conferred with the officers of the American Red Cross Society in this city, Miss Mabel T. Boardman and Mr. Charles L. Magee, and through them and other officers of that most worthy society very much was done in cooperating with the Government officials and the local relief committees for the flood sufferers in the district that I represent, and I now, for my constituents, desire to publicly express their grateful thanks to them for their benefactions.

The SPEAKER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. BARTLETT, a motion to reconsider the vote by which the joint resolution was passed was laid on the table.

ROBERT W. ARCHBALD.

Mr. CLAYTON. Mr. Speaker, I offer the following privileged resolution.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 524.

Resolved, That the Committee on the Judiciary be, and is hereby, authorized to inquire into and concerning the official conduct of Hon. Robert W. Archbald, formerly district judge of the United States Court for the Middle District of Pennsylvania and now a judge of the Commerce Court, touching his conduct in regard to the matters and things mentioned in House resolution 511; and especially whether said judge has been guilty of an impeachable offense, and to report to the House the conclusions of the committee in respect thereto, with appropriate recommendation; and

Resolved further, That the Committee on the Judiciary shall have power to send for persons and papers, and to subpœna witnesses and to administer oaths to said witnesses; and for the purpose of making this investigation said committee is authorized to sit during the sessions of this House; and the Speaker shall have authority to sign and the Clerk to attest subpœnas for any witness or witnesses.

The question was taken, and the resolution was agreed to.

ENROLLED BILL SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that that committee had examined and found truly enrolled the bill (H. R. 23774) providing an appropriation to check the inroads of the Missouri River in Dakota County, Nebr., when the Speaker signed the same.

PENSIONS.

Mr. RUSSELL. Mr. Speaker, I desire to call up the bill (S. 5624) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, which bill is now on the Speaker's table, and I move that the House agree to the request of the Senate for a conference.

The SPEAKER. The gentleman from Missouri moves to take from the Speaker's table the pension bill, S. 5624, and agree to the conference asked.

The question was taken, and the motion was agreed to; and the Speaker announced as conferees on the part of the House Mr. RUSSELL, Mr. ANDERSON of Ohio, and Mr. FULLER.

ADJOURNMENT.

Mr. JOHNSON of South Carolina. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 47 minutes p. m.) the House adjourned to meet to-morrow, Sunday, May 5, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, a letter from the Secretary of Commerce and Labor, transmitting the department's views of H. R. 19544, saying the exception in the case of "railway lines entering the United States from foreign contiguous territory," should not be eliminated from the law (H. Doc. No. 731), was taken from the Speaker's table, referred to the Committee on Immigration and Naturalization, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. HUMPHREY of Washington, from the Committee on the Merchant Marine and Fisheries, to which was referred the bill (H. R. 23067) to amend the laws relating to navigation, reported the same with amendment, accompanied by a report (No. 653), which said bill and report were referred to the House Calendar.

Mr. POST, from the Committee on the Merchant Marine and Fisheries, to which was referred the bill (H. R. 22907) to provide American registry for the steamer *Damara*, reported the same without amendment, accompanied by a report (No. 656), which said bill and report were referred to the House Calendar.

Mr. TOWNSEND, from the Committee on Foreign Affairs, to which was referred the joint resolution (H. J. Res. 137) to amend the joint resolution of May 25, 1908, providing for the remission of a portion of the Chinese indemnity, reported the same without amendment, accompanied by a report (No. 654), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. WICKLIFFE, from the Committee on Agriculture, to which was referred the bill (H. R. 24029) to provide for emergency crops on overflowed lands in the Mississippi Valley, reported the same with amendment, accompanied by a report (No. 655), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. ALEXANDER, from the Committee on the Merchant Marine and Fisheries, to which was referred the bill (H. R. 24025) to amend sections 4400 and 4488 of the Revised Statutes of the United States relating to the inspection of steam vessels, and section 1 of an act approved June 24, 1910, requiring apparatus and operators for radio communication on certain ocean-going steamers, reported the same with amendment, accompanied by a report (No. 657), which said bill and report were referred to the House Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. PARRAN: A bill (H. R. 24152) to provide for the purchase of a site and the erection of a public building thereon at Hyattsville, in the State of Maryland; to the Committee on Public Buildings and Grounds.

By Mr. PUJO: A bill (H. R. 24153) to amend and reenact section 5241 of the Revised Statutes of the United States; to the Committee on Banking and Currency.

By Mr. MOORE of Pennsylvania: A bill (H. R. 24154) to equip the U. S. S. *Adams* with electrical and wireless apparatus; to the Committee on Naval Affairs.

By Mr. ANSBERRY: A bill (H. R. 24155) providing for the erection of a monument to Col. William Jennings, at Fort Jennings, Ohio; to the Committee on the Library.

By Mr. McGUIRE of Oklahoma: A bill (H. R. 24156) directing the sale and disposition of the surplus lands of the Chilocco Indian Reservation in Oklahoma; to the Committee on Indian Affairs.

By Mr. WICKERSHAM: A bill (H. R. 24157) to provide for holding the Alaska Semi-Centennial Exposition at Fairbanks, Alaska, for the exhibition of the products and resources of the Territory, making appropriations therefor, and for other purposes; to the Committee on Industrial Arts and Expositions.

By Mr. FOWLER: Resolution (H. Res. 523) calling upon the Secretary of the Treasury for certain information; to the Committee on Expenditures in the Treasury Department.

By Mr. ROBERTS of Massachusetts: A memorial from the Massachusetts Legislature, favoring Federal protection to migratory game birds; to the Committee on Agriculture.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of Ohio: A bill (H. R. 24158) granting an increase of pension to William F. Whitmore; to the Committee on Invalid Pensions.

By Mr. ANSBERRY: A bill (H. R. 24159) granting an increase of pension to John Ritter; to the Committee on Invalid Pensions.

Also, a bill (H. R. 24160) granting an increase of pension to Calvin M. Rogers; to the Committee on Invalid Pensions.

By Mr. BARCHFELD: A bill (H. R. 24161) providing for the recognition of the heroic services of Chief Boatswain Patrick Deery, United States Navy; to the Committee on Naval Affairs.

By Mr. BYRNES of South Carolina: A bill (H. R. 24162) for the relief of Beech Branch Baptist Church, of Hampton County, S. C.; to the Committee on War Claims.

By Mr. CAMPBELL: A bill (H. R. 24163) granting a pension to James P. Barton; to the Committee on Pensions.

By Mr. CONNELL: A bill (H. R. 24164) granting an increase of pension to Charles Schroder; to the Committee on Invalid Pensions.

By Mr. COPLEY: A bill (H. R. 24165) granting an increase of pension to Charles W. Webster; to the Committee on Invalid Pensions.

By Mr. COX of Indiana: A bill (H. R. 24166) granting a pension to Jacob Weaver; to the Committee on Invalid Pensions.

Also, a bill (H. R. 24167) granting an increase of pension to Allen Conner; to the Committee on Invalid Pensions.

Also, a bill (H. R. 24168) granting an increase of pension to Benjamin F. Jones; to the Committee on Invalid Pensions.

Also, a bill (H. R. 24169) granting an increase of pension to Jacob Schmidt; to the Committee on Invalid Pensions.

By Mr. FARR: A bill (H. R. 24170) granting an increase of pension to David Thompson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 24171) granting an increase of pension to James Phillips; to the Committee on Invalid Pensions.

By Mr. GOOD: A bill (H. R. 24172) granting an increase of pension to Horace J. Bennett; to the Committee on Invalid Pensions.

By Mr. HELM: A bill (H. R. 24173) for the relief of the estate of G. W. Rogers, deceased; to the Committee on War Claims.

Also, a bill (H. R. 24174) for the relief of T. J. Hill, sr., administrator of the estate of Harvey McAlister, deceased; to the Committee on War Claims.

By Mr. JACOWAY: A bill (H. R. 24175) for the relief of Mrs. E. W. Brown; to the Committee on War Claims.

Also, a bill (H. R. 24176) for the relief of Edgar Shinn; to the Committee on Claims.

By Mr. KINKAID of Nebraska: A bill (H. R. 24177) granting an increase of pension to John W. Widdoes; to the Committee on Invalid Pensions.

By Mr. LAFFERTY: A bill (H. R. 24178) granting an increase of pension to Pha Tefft; to the Committee on Invalid Pensions.

Also, a bill (H. R. 24179) granting an increase of pension to Martin J. Tunney; to the Committee on Pensions.

Also, a bill (H. R. 24180) granting an increase of pension to Rachel I. Holloway; to the Committee on Invalid Pensions.

By Mr. McGUIRE of Oklahoma: A bill (H. R. 24181) granting an increase of pension to James Crawford; to the Committee on Invalid Pensions.

By Mr. MOON of Tennessee: A bill (H. R. 24182) to correct the military record of John M. Southard; to the Committee on Military Affairs.

By Mr. PATTON of Pennsylvania: A bill (H. R. 24183) granting an increase of pension to Cyrus Michaels; to the Committee on Invalid Pensions.

By Mr. RIORDAN: A bill (H. R. 24184) granting a pension to Bridget Tierney; to the Committee on Invalid Pensions.

By Mr. RUSSELL: A bill (H. R. 24185) granting a pension to Olive E. Myer; to the Committee on Invalid Pensions.

By Mr. SPEER: A bill (H. R. 24186) granting a pension to Isabella Elliott; to the Committee on Invalid Pensions.

Also, a bill (H. R. 24187) granting an increase of pension to George R. Stearns; to the Committee on Invalid Pensions.

By Mr. STERLING: A bill (H. R. 24188) granting an increase of pension to Hannah Edgington; to the Committee on Invalid Pensions.

By Mr. THISTLEWOOD: A bill (H. R. 24189) granting an increase of pension to Stephen Bostwick; to the Committee on Invalid Pensions.

By Mr. UNDERHILL: A bill (H. R. 24190) granting an increase of pension to Henry W. Sanford; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ANDERSON of Minnesota: Petition of F. Augustine and 13 others, of Kasson, Minn., against the extension of the parcel-post system; to the Committee on the Post Office and Post Roads.

By Mr. ASHBROOK: Papers to accompany House bill 23726, for the special relief of Nathan M. Wells, of Company G, Sixty-fourth Regiment Ohio Volunteer Infantry; to the Committee on Invalid Pensions.

Also, petition of E. B. Coleman and 20 other citizens of Newark, Ohio, protesting against passage of interstate-commerce liquor law; to the Committee on the Judiciary.

Also, petition of the Mayers Bros. Co. and 10 other merchants, of Millersburg, Ohio, against passage of any parcel-post bill; to the Committee on the Post Office and Post Roads.

By Mr. AYRES: Memorial of the New York Board of Trade and Transportation, favoring increase in pay of commissioned medical officers of the Public Health and Marine-Hospital Service of the United States; to the Committee on Interstate and Foreign Commerce.

By Mr. BARTHOLDT: Petition of the University of Missouri, of Rolla, Mo., in favor of House bill 6304, providing for Federal support of State mining schools; to the Committee on Mines and Mining.

By Mr. CLINE: Petition of citizens of Fort Wayne, Ind., favoring the anti-Taylor system bills (H. R. 22339 and S. 6172); to the Committee on the Judiciary.

By Mr. DYER: Letter from Albert Blair, of St. Louis, Mo., relative to incorporation of the Rockefeller Foundation; to the Committee on the Judiciary.

By Mr. ESTOPINAL: Petition of Aug. Glandot, jr., New Orleans, La., favoring passage of Senate bill 6103 and House bill 22766, for prohibiting use of trading coupons; to the Committee on Ways and Means.

Also, petition of the Louisiana Homestead League, asking that building and loan associations and homestead leagues be exempted from payment of income or excise taxes; to the Committee on Ways and Means.

By Mr. FARR: Petition of Samuel J. Hall and 18 others, of Scranton, Pa., favoring building one battleship in a Government navy yard; to the Committee on Naval Affairs.

Also, petition of Rev. Thomas F. Coffey and others, of Carbondale, Pa., favoring passage of Kenyon-Sheppard interstate liquor bill; to the Committee on the Judiciary.

Also, petition of John Coyne and 24 others, of Scranton, Pa., asking for the construction of a battleship in New York Navy Yard; to the Committee on Naval Affairs.

By Mr. FULLER: Petition of Hannah H. Weirick, of South Beloit, Ill., favoring the enactment of proposed legislation, with certain amendments, relating to water rights in the island of Oahu, Hawaii, etc.; to the Committee on the Territories.

Also, petition of Adolph G. Tesche, Mendota, Ill., concerning proposed legislation to change the patent laws; to the Committee on Patents.

Also, petition of Young & Jaskowieck, La Salle, Ill., favoring the passage of House bill 22766, to prohibit the use of trading coupons; to the Committee on Ways and Means.

By Mr. HANNA: Petition of citizens of Nome, N. Dak., against passage of a parcel-post bill; to the Committee on the Post Office and Post Roads.

Also, petition of citizens of North Dakota, favoring reduction of duty on raw and refined sugars; to the Committee on Ways and Means.

Also, petition of citizens of North Dakota, against passage of the Lever antifuture-trading bill; to the Committee on Agriculture.

By Mr. HELM: Papers to accompany claim of G. W. Rogers, of the State of Kentucky, for property taken by the Army of the United States at Richmond, Ky., in 1862; to the Committee on War Claims.

By Mr. LOBECK: Resolutions of citizens of Benson and Kennard, Nebr., favoring passage of the Haugen bill and against passage of the Lever bill; to the Committee on Agriculture.

Also, petition of the Woman's Christian Temperance Union of the State of Nebraska, favoring passage of the Kenyon-Sheppard interstate liquor bill; to the Committee on the Judiciary.

By Mr. MARTIN of South Dakota: Petition of Sibug Browluaig, Tulare, S. Dak., in opposition to the Lever antifuture-trading bill; to the Committee on Agriculture.

Also, petition of Joseph H. Koch, Tulare, S. Dak., in opposition to the passage of the Lever antifuture-trading bill; to the Committee on Agriculture.

Also, petition of Midison Farmers' Elevator Co., in opposition to the Lever antifuture-trading bill; to the Committee on Agriculture.

By Mr. McKINNEY: Petition of residents of Rock Island and Moline, Ill., favoring the passage of House bill 22330 and Senate bill 6172—the anti-Taylor system bills; to the Committee on the Judiciary.

By Mr. McCOY: Petition of the Police Lieutenants' Association of Newark, N. J., favoring the passage of the Hamill bill; to the Committee on Reform in the Civil Service.

By Mr. MOON of Tennessee: Papers to accompany bill to correct the military record of John M. Southard, of Sparta, Tenn.; to the Committee on Military Affairs.

By Mr. REDFIELD: Resolution of the Allied Board of Trade and Taxpayers' Association, relative to wireless apparatus and operators and sufficient lifeboats for ocean steamers; to the Committee on the Merchant Marine and Fisheries.

Also, petition of the United Polish Societies and Polish National Alliance, of Brooklyn, and the Workmen's Circle and Jewish Community, of New York City, against passage of bill for literacy test of immigrants; to the Committee on Immigration and Naturalization.

By Mr. SMITH of New York: Resolution of the Buffalo Local Colony Alliance of Polish Roman Catholic Union of America, against the literacy test for immigrants; to the Committee on Immigration and Naturalization.

By Mr. SPEER: Papers to accompany House bill 23758, granting an increase of pension to Lester R. Warner, of Pennsylvania, and House bill 23509, granting an increase of pension to Jeremiah D. Allen, of Pennsylvania; to the Committee on Invalid Pensions.

By Mr. SULZER: Petition of the Committee of Wholesale Grocers, New York, N. Y., favoring reduction of duties on raw and refined sugars; to the Committee on Ways and Means.

Also, petition of the Order of Railway Conductors of America, Division No. 54, of New York City, favoring passage of House bill 20487, a Federal accident compensation bill; to the Committee on the Judiciary.

Also, paper expressing the wail of the Government clerk, dedicated to the Committee on Appropriations; to the Committee on Appropriations.

Also, petition of the Committee of Wholesale Grocers, favoring reduction of duties on raw and refined sugars; to the Committee on Ways and Means.

By Mr. THISTLEWOOD: Petition of citizens of Duquoin, Ill., protesting against the passage of amendment to immigration bill providing for the deportation of political refugees; to the Committee on Immigration and Naturalization.

HOUSE OF REPRESENTATIVES.

SUNDAY, *May 5, 1912.*

The House met at 12 o'clock noon, and was called to order by the Speaker pro tempore, Mr. HUGHES of New Jersey.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Infinite and eternal Spirit, life of our life, soul of our soul, spirit of our spirit, our God and our Father, we thank Thee for the blessed assurance that as the child born in the manger was an incarnation, so is every child born into the world an incarnation. And just so surely as the Jesus rose from the dead, so surely is death the resurrection for every man.

"For we know that if our earthly house of this tabernacle were dissolved, we have a building of God, a house not made with hands, eternal in the heavens.

"For we that are in this tabernacle do groan, being burdened; not for that we would be unclothed, but clothed upon, that mortality might be swallowed up of life.

"Now, He that hath wrought us for the selfsame thing is God, who also hath given unto us the earnest of the spirit."

Blessed truth, which bridges the gulf and makes the continuity of life a living reality.

Cold in the dust the perished heart may lie,
But that which warmed it once can never die.

We thank Thee for the splendid personality of the Member in whose memory we assemble. Pronounced in his convictions, pure in his motives, an indefatigable worker, he served his State and Nation with fidelity and singleness of purpose. He may not return to us, but we shall surely go to him. Be this the comfort of those who knew and loved him.

Be graciously near to the bereaved wife and grandchildren, and help them to look forward with imperishable hope.

I walk with bare, hushed feet the ground
Men tread with boldness shod;
I dare not fix with mete and bound
The love and power of God.

In the spirit of Christ, the Lord. Amen.

The Clerk began the reading of the Journal of the proceedings of yesterday, when, on request of Mr. BROWNING and by unanimous consent, the further reading of the Journal was dispensed with and the Journal was approved.

THE LATE REPRESENTATIVE HENRY C. LOUDENSLAGER.

Mr. BROWNING. Mr. Speaker, several Members of the House who have signified their intention of speaking to-day have unexpectedly been called from the city. I ask unanimous consent that any Member who desires may print in the RECORD remarks on the life, character, and services of the late Representative LOUDENSLAGER.

The SPEAKER pro tempore. The gentleman from New Jersey asks unanimous consent that the Members of the House may print remarks in the RECORD on the late Representative LOUDENSLAGER. Is there objection?

There was no objection.

Mr. BROWNING. Mr. Speaker, I offer the following resolutions, which I send to the Clerk's desk.

The Clerk read as follows:

House resolution 525.

Resolved, That the business of the House be now suspended that opportunity may be given for tributes to the memory of Hon. HENRY C. LOUDENSLAGER, late a Member of the House from the State of New Jersey.

Resolved, That as a particular mark of respect to the memory of the deceased and in recognition of his distinguished public career the House, at the conclusion of these exercises, shall stand adjourned.

Resolved, That the Clerk communicate these resolutions to the Senate.

Resolved, That the Clerk send a copy of these resolutions to the family of the deceased.

The resolutions were agreed to.

Mr. GARDNER of New Jersey. Mr. Speaker, again we are called together to pay tribute to the life and service of a dead Member. These frequent occurrences impress us anew each time with the fact of man's mortality. They awaken and revivify, also, the recollection of those hundred others whom we admired, with whom we were in close friendship, and some of whom we loved. The memorial service comes as an afterglow to a life's sunset and is often beautiful in its reflections.

To-day we commemorate the life and work of a citizen of my own State of New Jersey. For her interests his zeal never flagged. He felt, too, a deep regard for the permanent welfare of his country and, actuated by patriotic motives, followed the light as it was given to him to see the light.

In the Fifty-third Congress, which first assembled in special session in August, 1893, there were few Republicans. Most of them had faced a storm and all had survived a tidal wave.